

1736-1737
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Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May* 1736, and continued by several Prorogations unto Wednesday the twenty-fourth Day of *November* following and then met.

CHAP. I.

An Act for securing the seasonable Payment of Town and Precinct Rates or Assessments.

WHEREAS the Method directed to by Law and heretofore practised by the Receivers or Treasurers of Towns and Precincts, hath been to sue for and recover Town and Precinct Rates and Assessments, or the Arrears thereof, by mean Process, against the Constables or Collectors, to whom they were committed to be gathered, who neglected their Duty therein, whereby the Payment of such Rates or Assessments into the respective Town or Precinct Treasuries, hath been greatly delayed, to the grievous Damage of many Places:

Preamble.

To prevent which for the future;

Be it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That

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from

Common and Undivided Lands.

Warrant of Distress to be issued against defective Collectors.

from and after the Publication of this Act, if the Constable or Collector of any Town or Precinct within this Province (to whom any Town or Precinct Rates or Assessments have been committed to collect) shall be remiss in his Duty by Law required, and neglect to collect such Rates and Assessments as have been committed to him to collect, and to pay in the same to the Treasurer or Receiver of such Town or Precinct, by the Time fixed in the Warrant to him directed, or within one Month next after the Expiration thereof, such Treasurer or Receiver is hereby impowered by Warrant under his Hand and Seal, directed to the Sheriff of the County or his Deputy (who are hereby respectively directed and impowered to execute the same) to cause such Sum or Sums of Money as such Constable or Collector hath not paid in, to be levied by Distress and Sale of his Estate Real or Personal, returning the Overplus (if any there be) and for want of such Estate, to take the Body of such Constable or Collector, and to imprison him until he pay the same.

Limitation.

Provided, This Act shall continue and be in Force for the Space of seven Years from and after the Publication thereof, and from thence to the End of the then next Session of the General Court, and no longer.

Reviv'd and Continu'd 'till June 23, 1770.

C H A P. II.

An Act in further Addition to an Act made in the first Year of his present Majesty's Reign, Intituled, *An Act to prevent Coparceners, joint Tenants and Tenants in Common, from committing Strip and Waste upon Lands by them held in common and undivided.*

Preamble.

WHEREAS in some Towns in this Province there are Lands lying in Common and undivided, belonging either to some Town, or to the Proprietors of such common or undivided Land, which can't without much Inconvenience be divided; yet such Land would be profitable to the Town or Proprietors for raising Wood and Timber, in Case it were under the Government of the Owners, and particular Persons could be restrained from making Waste by cutting Poles and young Wood, &c.

Therefore for rendering such Lands more useful to the Owners for the future.

Tenants in common, &c. forbidden to make Strip and Waste.

Be it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Person or Persons whatsoever, belonging to such Town, or having a Right in such common or undivided Lands, shall or may without Leave from the Owners of such Land (as is hereafter directed) either by himself, Son, Servant, or any other Person, cut, fell, destroy or carry away any Trees, Timber, Poles, Wood or Under-Wood whatsoever, standing, lying or growing on such common and undivided Lands

Common and Undivided Lands.

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Lands as aforesaid, under the Penalties and Forfeitures as are provided by an Act made in the twelfth Year of King George the first, Chap. 5, Intituled *An Act in Addition to, and for rendering more effectual an Act made in the tenth Year of the Reign of King William the third, Intituled An Act for preventing of Trespasses.*

And be it further enacted by the Authority aforesaid, That if any Person or Persons, from and after the Publication of this Act, shall presume to dig up or carry off from any such common and undivided Lands as aforesaid, any Stone or Oar without Leave as aforesaid, he or they shall forfeit and pay treble the Value thereof. Provided nevertheless, That it shall be in the Power of the Town who are the Owners of such common or undivided Lands, by a major Vote in a Town Meeting, for that Purpose appointed, to allow of and give Liberty to any of the Inhabitants of such Town or of the Proprietors of any such Lands lying in common or undivided, in a Meeting of the Proprietors for that Purpose, to allow of and give Leave to any of the Proprietors of such Lands, respectively to cut and carry off any Trees, Poles, Wood, or Under-wood, Stone or Oar from such Land, under such Limitations and Restrictions as such Town or Proprietors shall agree upon. Provided, That in such Proprietors Meeting all the Votes shall be computed by the Interest where each Proprietor's Interest is stated, and the Liberty of cutting and other Improvements of the Proprietors to be in proportion to their several and respective Interests. And all the Votes of Allowance or Liberty shall be fairly recorded in the Town or Proprietors Books respectively, that all Persons may know the Liberty thereby given them. The Penalties and Forfeitures arising by virtue of this Act to be recovered before any of His Majesty's Justices of the Peace, where the Penalty exceeds not forty Shillings, or in any of His Majesty's Courts of Record within the County where the Offence is committed, (as the Value of the Damage may be) by Action, Bill, Complaint or Information, to be brought and prosecuted by any one or more of the Persons that the Town or Proprietors interested shall chuse, to manage the same, or by any Inhabitant of such Town, or by any Proprietor of such common and undivided Lands, in Case the Town or Proprietors shall neglect to chuse such Prosecutor, or being chosen he shall neglect to prosecute as aforesaid; the whole of such Penalties and Forfeitures to be to the Use and Benefit of such Town who are Owners of such Lands, or to the Proprietors interested as aforesaid.

Penalty for digging Stones &c. without Leave of the Proprietors.

Proviso.

Proviso.

And be it further enacted by the Authority aforesaid, That in all Offences against this Act, the Offender or Offenders shall be liable to a Conviction in the same Manner as is already provided in the aforesaid Act, made in the twelfth Year of the Reign of King George the first, Chap. 5.

Manner of Prosecution.

This Act to continue and be in Force for the Space of ten Years from the Publication thereof, and from thence to the End of the then next Session of the General Court, and no longer.

Limitation.

Continued to July 2. 1770.

C H A P. III.

An Act in further Addition to an Act Intituled *An Act for the Relief of Idiots and distracted Persons.*

Preamble.

WHEREAS the Provision made in and by an Act made and passed in the sixth Year of the Reign of King William and Queen Mary, Intituled, An Act for the Relief of Idiots and distracted Persons, only respects such Idiots, Persons non Compos, or distracted, whose near Relations refuse to undertake the Care of providing for them, and whose Circumstances may finally require the Sale of their Lands, or their Persons to be put out to Labour in order to prevent any Charge to the Town where such distracted Person or Idiot is an Inhabitant, and no Method prescribed in the said Act how it may be inquired of and known whether the Person said to be a Lunatick, Idiot or non Compos be so or not; and for the securing the Estate of such Idiot or distracted Person from Imbezzlement.

Judges of Probate to inquire of Idiots or distracted Persons.

Be it therefore enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall be in the Power of the Judges for the Probate of Wills, and for granting Letters of Administration for and within the respective Counties in this Province, from Time to Time (upon Request made by the Relations or Friends of any Idiot, non Compos, Lunatick or distracted Person, or the Overseers of the Poor in such Town where the said Idiot or distracted Person lives or is an Inhabitant) to direct the Select-Men of such Town to make Inquisition thereinto; and if the Person said to be an Idiot or distracted shall be so determined by the Judge of Probate of the County and Select-Men of the Town (or major Part of them) wherein such Idiot or distracted Person lives, then and in that Case, such Judge of Probate shall assign and appoint some suitable Person or Persons to be Guardian or Guardians of such Idiot or non Compos, directing and empowering such Guardian or Guardians to take Care as well of the Person as Estate, both Real and Personal, of the said Idiot or distracted Person, and to make a true and perfect Inventory of the said Estate, to be returned to and filed in the Register's Office of the Courts of Probate in the respective Counties within this Province.

Judges of Probate to appoint Guardians of Idiots or distracted Persons.

To put Persons upon Oath suspected of Imbezzlement of the Estates of Idiots or distracted Persons.

And be it further enacted by the Authority aforesaid, That the Judges for the Probate of Wills and granting Administrations within the respective Counties, be and hereby are fully authorized and empowered to call before them, and to require and administer an Oath unto any Person or Persons probably suspected of making any Concealment, Imbezzlement or conveying away any of the Money, Goods or Chattels of any such Idiot, non Compos, Lunatick or distracted Person, as well upon the Complaint of any Heir, Creditor, or other Person, having lawful Right or Claim to or in such Estate, as of the said Guardian or Guardians: And in Case any such suspected Person was entrusted by the said Idiot, non Compos, Lunatick or distracted Person, or was otherwise conversant with, or near unto him in the Time of his Lunacy or Distraction, or is in Possession of the Estate, or any Part thereof, whereby to strengthen and make the Suspicion more violent, and shall refuse to clear and acquit him or herself upon Oath, it shall and may be lawful for the Judges of Probate, and they are accordingly empowered

Idiots and distracted Persons.

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ered and directed to commit such Person so refusing to Swear, unto the Goal of the County; there to remain until he or she shall comply to discharge him or herself upon Oath as aforesaid, or be released by Consent of the Guardian or Guardians, Heir; Creditor, or other Person having lawful Right or Claim to or in such Estate as aforesaid.

And be it further enacted by the Authority aforesaid, That the Guardian or Guardians, appointed as aforesaid, shall improve frugally and without Waste and Destruction the Estate of the Idiot, *non Compos*, Lunatick or distracted Person, and apply the annual Profits and Incomes thereof for the comfortable Maintenance and Support of the said Idiot, Lunatick, *non Compos*, or distracted Person, and also of his Household or Family (if any such he have) and that the said Guardian and Guardians be and hereby are impowered to settle Accompts, receive, and (if need be) sue for and recover all such just Debts as shall be due to the said Idiots, Persons distracted or *non Compos*, from any Person or Persons whomsoever, and to manage, improve, divide or take Care of the real Estate of such Idiot, Person distracted or *non Compos*, in as full and ample a Manner as the said Persons could or might do were they restored to their right Mind; and also shall be subject to the Payment of all such just Debts owing by such Persons, which were contracted before their Distraction, out of the personal Estate of such Idiot, Persons *non Compos* or distracted, or (in Case that be not sufficient) then out of the real Estate, being first impowered to make Sale thereof, or of such Part thereof as is sufficient for that End, by the Justices of the Superiour Court of Judicature, upon Application to them made therefor: And in Case the said distracted Persons shall come or be restored to their right Mind, the Residue of his or her Estate both Real and Personal shall be delivered or returned to them, or to their respective Heirs, Executors or Administrators as the Law directs, the Guardian or Guardians having first such a reasonable Allowance out of the same for their Charges and Trouble as the Judge of Probate shall order.

Persons refusing to Swear to be committed to Prison.

Guardians to be allowed for their Trouble and Charge.

And be it further enacted by the Authority aforesaid, That the Guardian or Guardians appointed as aforesaid, shall give Bond to the Judge of Probate for the Time being, in a reasonable Sum, with sufficient Sureties for the faithful Discharge of the Trust in them reposed, more especially for the rendring a just and true Account of their said Guardianship, when and so often as they shall be thereunto required. *Saving always,* the Right of Appeal to the Governour and Council, as is practised in other Cases from the Sentences or Decrees of the Judges of Probate.

Guardians to give Bond.

Saving the Right of Appeal.

This Act to continue and be in Force for the Space of ten Years, from the Publication thereof, and from thence to the End of the Session of the General Court in *May* next following, and no longer.

Limitation.

[*The two foregoing Acts were Publish'd July 27. 1737. .*]

The foregoing Act reviv'd and continued till July 1. 1770.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirty-first Day of *May* 1738. And continued by Prorogations unto Wednesday the twenty-ninth Day of *November* following.

C H A P. I.

An Act to prevent the unnecessary Journeying of the Members of the General Court.

Preamble.

WHEREAS of late there has been too great Neglect in the Sheriffs in not taking due Care seasonably to disperse to and among the several Towns, the Proclamations for Proroguing and Dissolving the Great and General Courts or Assemblies, whereby many of the Members of said Court have been put to unreasonable Trouble and Expence :

For Remedy whereof :

Sheriff of
Suffolk to
transmit Pro-
clamations to
the other She-
riffs.

Be it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That the Secretary shall from henceforth immediately after any such Prorogation or Dissolution of the Great and General Court or Assembly, cause a sufficient Number of the said Proclamations (the same being first printed off) to be safely conveyed and delivered to the Sheriff of the County of *Suffolk*; who upon Receipt thereof shall forthwith take Care that the several Towns within his Precinct be served with the same; and shall likewise use the best Method he can that the several Sheriffs within this Province have each of them so many of the said Proclamations as may be needful for the several Towns within their respective Counties; who are hereby alike enjoined, upon the Receipt thereof, effectually to disperse the same to every of the Towns for the Ends aforesaid. And every Sheriff shall be allowed and paid for his Trouble and Charge in sending out the aforesaid Proclamations, out of the Treasuries of the said Counties respectively, what shall be adjudged reasonable by the respective Courts of General Sessions of the Peace; the Sheriff of the County of *Suffolk* to be paid for transmitting the Proclamations to the other Sheriffs within this Province out of the publick Treasury. And every Sheriff neglecting his Duty in any of the Particulars aforementioned, shall forfeit and pay the Sum of *ten Pounds*, to be recovered by Bill, Plaint or Information

Penalty for
Neglect.

Plumb Island.

7

Information, in any of His Majesty's Courts of Record, the one Half to be for and towards the Support of the Government, and the other Half to him or them that shall inform and sue for the same.

This Act to continue and be in Force for the Space of five Years, and Limitation. no longer.

Reviv'd and continued to July 1. 1770.

[The foregoing Act was Published January 27. 1738.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirtieth Day of *May* 1739. And continued by Prorogations to Wednesday the fifth Day of *December* following.

CHAP. I.

An Act for the effectual preventing of Horses, Neat Cattle, Sheep and Swine from running at Large, or feeding upon a certain Island called *Plumb-Island*, lying in *Ipswich Bay* in the County of *Essex*.

WHEREAS it appears to this Court that there is a great and valuable Estate consisting of Salt-Meadow lying on the Island at the Bottom of Ipswich Bay, called Plumb-Island which is exposed and liable to be destroyed by Horses, Cattle and other Creatures, being turned or drove on said Island, and feeding down the Beach Grass, and treading down the Sea Walls, and by ill-minded Persons setting Fires on said Island, whereby the Shrubs and Grass are destroyed, and open a Course to the Sea and Sand; which if not prevented, may over-run and destroy said Estate and Interest, to the great Loss of the Proprietors and no small Damage of the Publick: Preamble.

For Remedy whereof;

Be it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Person shall presume

to

No Horses,
Cattle, &c. to
go at large on
Plumb Island.

to turn or drive any neat Cattle, Horses, Sheep or Swine upon said Island or Beach to feed at large there, upon Penalty of *twenty Shillings* a Head for all neat Cattle and for every Horse or Mare, and *five Shillings* a Head for every Sheep or Swine so turned to feed at Large upon said Island or Beach; which Penalty shall be recovered by any one of said Proprietors or their Agents, being thereunto lawfully authorised; the one Half of the Forfeiture to be to him that shall inform and sue for the same, the other Half to be for the Use of the Poor of the Town where the Beach lies so trespassed on.

Cattle, &c.
found at large
to be im-
pounded.

Damages to
be paid.

Saving.

Penalty for
setting Fire to
the Grass,
Shrubs, &c.

*And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any of the Owners and Proprietors of the said Island, if they shall find any Cattle, Horse-Kind, Sheep or Swine going at Large upon the Island or Beach aforesaid, to impound the same, and to give publick Notice thereof in the said Town and the two next adjoining Towns, and shall relieve the said Creatures while impounded, with suitable Meat and Water; and if the Owner thereof shall appear, he shall pay the Sum of *twenty Shillings* for each Head of neat Cattle or Horse-Kind, *five Shillings* for each Sheep, and *five Shillings* for each Swine found feeding as aforesaid, and Costs of impounding the same: And if no Owner appear within the Space of six Days to redeem the said Cattle, Horse-Kind, Sheep or Swine so impounded, and to pay Damage and Costs occasioned by impounding the same, then and in every such Case, any of the aforesaid Proprietors impounding such Cattle, Horse-Kind, Sheep or Swine, shall cause the same to be sold at publick Vendue for Payment of the Damages sustained by Reason of such Cattle, Horse-Kind, Sheep or Swine, feeding upon the Island, or Beach aforesaid, as also to pay the Cost and Charges arising about the same, (publick Notice of the Time and Place of such Sale in said Town where the Cattle are impounded, being given forty-eight Hours before Hand) and the Overplus (if any be) arising by such Sale, to be returned to the Owner of such Cattle, Horse-Kind, Sheep or Swine, at any Time within twelve Months next after, upon his demanding the same; but if no Owner appear within the said twelve Months, then the said Overplus shall be one Half to the Party impounding, and the other Half to the Use of the Poor of said Town, provided that the Penalty for Cattle, Horse-Kind, Sheep and Swine impounded as aforesaid, shall not be construed to extend to any such as are truly belonging to any of the Inhabitants of said Island, and fed in their Inclosures; but that all such Cattle, Horse-Kind, Sheep and Swine breaking their Inclosures, and found feeding at Large on said Island, and therefore impounded, shall be liable only for Damages and Cost, as in other Cases of Cattle found Damage feazant: Any Thing in this Act to the contrary notwithstanding.*

*And be it further enacted by the Authority aforesaid, That every Person or Persons who shall, during the Continuance of this Act, be convicted of setting Fire to any Part of said Beach-Grass, Bushes or Shrubs growing thereon, shall forfeit the Sum of *ten Pounds*, to be recovered by Action in any Court proper to try the same, and applied in the Way and Manner aforesaid.*

And whereas the small Wood, Shrubs and Bushes are of great Service to prevent the Sands being blown on the said Meadow;

Be

Cape-Cod Harbour.

9

Be it further enacted, by the Authority aforesaid, That whoever shall be convicted of cutting down any Bushes, Shrubs or Tree under the Dimensions of six Inches diameter, growing on said Beach, or Marsh, shall forfeit and pay the Sum of *ten Shillings*, for each Brush, Shrub or Tree, to be recovered and applied in the Way and Manner aforesaid. Penalty for rooting down Trees, Shrubs, &c.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

[The foregoing Act was Published December 29. 1739.]

Reviv'd and continued to June 10. 1766.

An Act

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-eighth Day of *May* 1740. And continued by Prorogations to Wednesday the nineteenth Day of *November* following.

CHAP. I.

An Act to prevent Damage being done to the Harbour of *Cape-Cod*, by Cattle and Horse-Kind feeding on *Province-Town* Land.

WHEREAS many Persons not Inhabitants in *Province-Town*, frequently drive down great Numbers of Neat Cattle and Horse-Kind to feed thereon, whereby the Beaches there are much broken and damnified, which occasions the Sands blowing into *Cape-Cod* Harbour, to the great Damage thereof. Preamble.

Be it therefore enacted by his Excellency the Governor, Council, and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Person or Persons not being Inhabitants of *Province-Town*, shall presume to turn or drive any Neat Cattle or Horse-Kind to or upon the Lands of *Province-Town*, so called, to feed thereon, upon the Penalty of *forty Shillings* a Head, for all Neat Cattle, and for every Horse or Mare that shall be turned or found feeding on *Province-Town* Land; which Penalty shall be recovered by the Select-Men or Constable of the said Town, or any other Person who shall inform and sue for the same; the one Half of the said Forfeiture to be to him or them who shall inform and sue for the same; and the other Half to be to and for the Use of the Poor of the said Town. Persons not inhabiting Province-Town prohibited the putting Cattle and Horses on the said Land.

[D]

And

Cattle and
Horses driven
on Province-
Town Land to
be impounded

And be it further enacted by the Authority aforesaid, That if any Neat Cattle or Horse-Kind, shall at any Time hereafter be found feeding on the Land, or Beach of the said Township of Province-Town, other than such as are owned by the Inhabitants of the said Town, that it shall and may be lawful for any Person to impound the same, and to give publick Notice thereof in the said Town, and the two next adjoining Towns, and the Impounder shall relieve said Creatures, while Impounded, with suitable Meat and Water; and if the Owner thereof appear, he shall pay ten Shillings Damage to the Impounder for each Head of Neat Cattle or Horse-Kind so impounded, and Costs of impounding and providing for the same; and if no Owner appear within the Space of six Days to redeem the said Cattle or Horse-Kind so impounded, and to pay the Damage and Costs occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle or Horse Kind, shall cause the same to be sold at publick Vendue, for Payment to the Town of the Damage sustained by Reason of such Cattle or Horse-Kind feeding upon the Land of the said Township; as also to pay the Costs and Charges arising about the same to the Impounder (publick Notice of the Time and Place of such Sale to be given in the said Town of Province-Town, and in the Town of Truro, forty eight Hours before Hand) and the Overplus, if any there be, arising by such Sale, to be returned to the Owner of such Cattle or Horse-Kind, at any Time within twelve Months next after, upon his demanding the same: But if no Owner appear within the said twelve Months, then the said Over-plus shall be one Half to the Party impounding, and the other Half to the Use of the Poor of the said Town of Province-Town.

Limitation.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and from thence to the End of the next Session of the General Court, and no longer.

[The foregoing Act was published January 13, 1740.]

Continued till July 1, 1767.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England: Begun and Held at Boston upon Wednesday the twenty-eighth Day of May 1740. And continued by several Prorogations unto Wednesday the twenty-sixth Day of March following.

CHAP. II.

An Act in further Addition to an Act for regulating of Fences, &c.

Preamble.

WHEREAS in and by an Act made in the fifth Year of King William and Queen Mary, Intituled, An Act for regulating of Fences, &c. Provision is made for the making and maintaining of Fences

Fences.

II

Fences betwixt Party and Party, and what Fences, Brooks, Rivers, Ponds or Creeks, in the Judgment of the Fence-Viewers shall be accounted sufficient Fences; but whereas the parting Line or Bounds between one Man's Land and another, often happens to be some small Brook, River, Pond or Creek, which of it self is not a sufficient Fence, neither is it practicable for the Owners of said Lands to Fence in the Middle thereof, which is the Line betwixt them; and it sometimes happens that the Owners of the Land on one Side will not help the other make and maintain the Fence for a Partition Fence on either Side thereof, in which Case the Law has made no Provision;

Be it therefore enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That if at any Time after the Publication of this Act, it shall happen that the Lands under Improvement of two Persons, each being bounded on or by a Brook, River, Pond or Creek, which of it self in the Judgment of the Fence-Viewers, is not a sufficient Fence, nor is it practicable for the Partition Fence betwixt them to be made in the middle thereof, which may be their real Bounds; if in such Case it shall happen that the Owner or Owners of the Land on one Side shall refuse to join with the Owner or Owners of the Land on the other Side in making and maintaining the Fence for their Partition Fence on the one Side or the other; in that Case on Complaint or Information made to two or more of the Fence-Viewers of the Town or Towns where such Lands lie, shall forthwith repair to the said Place, and view the said Brook, River, Pond, or Creek; and if in their Judgments the said Brook, River, Pond, or Creek of it self is not a sufficient Fence; and that it is impracticable to Fence in said Brook, River, Pond or Creek, that then the Fence-Viewers shall adjudge and determine how or on which Side thereof the Fence shall be set up and maintained; or whether partly on one Side, and partly on the other, in such Manner as may be most beneficial and least prejudicial to the Parties; and that on the Neglect or Refusal of either of said Parties to effect his Part or Proportion of said Fence in such Place as by the Fence-Viewers adjudged, the said Fence-Viewers shall forthwith procure or cause to be procured suitable Stuff and Materials; and therewith make and set up a sufficient Partition-Fence between the said Parties, which shall be and remain as a Partition-Fence; and be by the said Parties there maintained till by said Parties otherwise ordered: And that the Costs and Charges thereof shall be paid by him or them, in Whole or Proportion, for whom the said Fence is so made; and to be by the said Fence-Viewers accordingly recovered, pursuant to an Act made in the tenth Year of the said King William in Addition to the aforesaid Act of King William and Queen Mary, which said Act is to be observed as a Rule in all Things whereto this Act makes Provision.

How Fences are to be ordered when Lands are divided by a Brook, River, Pond or Creek

Fence Viewers to order the Fence in Case, &c.

How Costs of Ponds are to be recovered.

Nevertheless it is provided by this Act, That it shall be in the Liberty of the willing Party to erect his own Part and Proportion of said Fence pursuant to the Division made by the Fence-Viewers as aforesaid.

And whereas it may happen that the Bound or Line betwixt Man and Man may butt or end on or run into the Sea, or some River or Pond, whereby the Water-Fence may be needful;

Be it enacted by the Authority aforesaid, That when and so often as it shall so happen that a Water-Fence is needful, the said Water-Fence

How a Water Fence is to be from ordered.

Increase of Sheep and Goats encourag'd.

from Time to Time shall be made and maintained by the Owners of the Land butting as aforesaid, in equal Halves; and when it happens that either of said Owners shall refuse building or maintaining his Part thereof, the Fence-Viewers as is provided, shall do or cause the same to be done.

Limitation.

This Act to continue and be in Force for the Space of five Years and no longer.

Reviv'd and continued 'till January 30, 1771.

C H A P. III.

An Act to encourage the Increase of Sheep and Goats.

Preamble.

FORASMUCH as Rams and He Goats going at large with Ewes at all Times of the Year, has (by long Experience) been found prejudicial to the Increase of Sheep and Goats;

Rams and He-Goats not to go at large, but at a certain Season, under Penalty.

Penalty for their going at large a second Time.

Be it therefore enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Rams or He-Goats shall be suffered to go at large, or be out of the Inclosure of the Owner thereof from the tenth Day of August till after the fifteenth Day of November annually, under the Penalty of fifteen Shillings for each and every Ram or He-Goat found out of the Inclosure of the Owner thereof as aforesaid; said Penalty or Forfeiture to be paid by the Owner of such Ram or He-Goat, to the Party finding and taking up the same going at large within the Term abovementioned, and may be recovered by Action of Debt before a Justice of the Peace of the County where such Forfeiture arises, or of the County where the Owner may be found, and in Case the Owner be not known, the Person or Persons who shall take up shall likewise secure, and keep such Ram or He-Goat, and within twenty-four Hours after shall lodge a Notification thereof in Writing under his Hand, with the Town-Clerk of the Town where such Ram or He-Goat was found going at large, setting forth the Colour and Marks, Natural and Artificial, (if such there be) which Clerk shall make and keep an Entry or Record thereof, and post up the same at the Door of his Dwelling-House for the Information of any Inquirer, and for his Service herein shall have two Shillings paid him by the Person lodging the Notification as aforesaid. And in Case the Owner or Owners of any Ram or He-Goat so taken up and posted, shall within five Days next after such posting, repair to the Party taking up the same, and shall pay or tender to him the before-mentioned Forfeiture, together with the reasonable Charges occasioned by taking up, keeping and posting as aforesaid, such Ram or He-Goat shall be again restored to the Owner; but if the Owner do not appear within the aforesaid Term of five Days, or should be a second Time convicted before a Justice of the Peace, of transgressing against this Act; in either of the Cases before-mentioned the Ram or He-Goat found going at large, and taken up pursuant to this Act, shall be declared

clared forfeit, and shall thence-forward be the sole Property of the Person or Persons taking up and posting the same in Manner as is before-mentioned.

This act to continue and be in Force for seven Years from the Publication thereof, and no longer.

Continu'd 'till July 1. 1770.

[*The two foregoing Acts were Published April 10. 1741.*]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the eighth Day of *July* 1741.

CHAP. I.

An Act to prevent unnecessary Petitions to the Great and General Court.

WHEREAS Persons are frequently put to great Cost and Charge in making Answer to causeless Petitions preferred to the General Court of this Province ;

Preamble.

For Remedy whereof ;

Be it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That for the future, when any Petition or Complaint exhibited to the General Court, shall be dismissed as vexatious or causeless, and the same be expressed in the Vote of Dismission, the Respondent or adverse Party shall be intitled to have and receive of the Petitioner or Complainant, all such reasonable Costs and Damages, as he or they have sustained in attending or making Answer to such Petition or Complaint.

Upon the Dismission of vexatious Petitions, &c. the adverse Party to recover Damages.

And be it further enacted by the Authority aforesaid, That no Petition shall be received into the Court, except the same be preferred, within the Space of fourteen Days from the first Sitting of said Court, unless the Cause upon which the Petition is founded arose within the Sitting of said Court.

No Petition to be received after fourteen Days from the Court's first sitting, unless &c.

This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and from thence to the End of the next Session of the General Court, and no longer.

Limitation.

Continu'd till January 30. 1771.

C H A P. II.

An Act for the better regulating Porters employed within the Town of *Boston*.

Preamble.

WHEREAS the Trade and Business managed in the Town of *Boston*, between the Inhabitants thereof, and others trafficking there, occasions many Persons to resort to and attend about the *Wharves*, *Docks*, and other Parts of the Town, to convey and carry Goods, Wares and Merchandizes from Place to Place; some of whom are not so well known as such an Employment requires, others of no good Character, yet oft-times have Goods of a considerable Value put into their Custody for Conveyance as aforesaid, and some taking upon them the Business of Porters, impose upon those making Use of them, more especially Strangers, by exacting exorbitant Wages for their Labour, or refusing Business, tho' not before employed, if they cannot have their unreasonable Demands;

Therefore to avoid such Inconveniencies for the future;

Select-Men of *Boston* to appoint Porters.

Be it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That the Select-Men of the Town of *Boston* for the Time being, shall have full Power and Authority to order what Number, and who shall be employed, and take upon them the Business of carrying Goods, Wares and Merchandizes for Pay or Wages, as common Porters within the said Town; and what Rate or Price such Persons shall ask, receive and take for their Labour, Service and Attendance, according to the Distance of Place or other Circumstances the Select-Men shall order and ascertain; all which Persons so admitted by the Select-Men, shall at all Times when in the Service or doing the Business of Porters, wear a Badge or Ticket with the Figure of a Pine Tree marked thereon, on some Part of his upper Garment or Girdle; which Badge or Ticket shall be numbered, and a fair Entry of each Porter's Ticket made in the Select-Men's Book, as also the Wages they are to ask and receive, within ten Days after the Approbation of the Select-Men as aforesaid.

Who are to wear Badges number'd.

Select-Men to state their Wages.

Fine for serving as Porter without Licence.

And be it further enacted by the Authority aforesaid, That whosoever shall presume to take up the Business and Employ of a common Porter, and convey or carry Goods and Merchandize from Place to Place within the Town of *Boston* for Hire or Wages, without being admitted by the Select-Men as aforesaid, shall forfeit and pay the Sum of *Twenty Shillings* for every Time he shall be convicted thereof before any one of his Majesty's Justices of the Peace within the County of *Suffolk*, at *Boston* aforesaid, the one half of which Fine or Forfeiture shall be disposed of to and for the Use of the Poor of the Town of *Boston*, the other half to him or them that shall inform and sue for the same.

Penalty for Porters asking more for their Work than allow'd by the Select-Men.

And be it further enacted, That whosoever being admitted as a Porter as aforesaid, shall ask, take and receive any more than what the Select-Men shall allow for any Work or Service, shall for every such Exaction forfeit and pay the Sum of *Twenty Shillings*, to be recovered and disposed of as by this Act is already directed; and if any Person admitted and approved of

as

as aforesaid, as a common Porter, shall officiate or concern himself in the Business of transporting Goods or Merchandize, not having his Badge or Ticket, shall for every such Breach of this Act, forfeit and pay the Sum of *Twenty Shillings*, to be recovered and disposed of as aforesaid. Penalty for officiating without their Badge.

Be it further enacted, That the Select-Men shall require and take Bond of each one of the Porters, admitted as aforesaid, with sufficient Surety, in a Sum not exceeding *Fifty Pounds*, for their orderly and faithful acting in the Business, more especially their safe conveying and delivering such Goods as shall be committed to them. And that upon Complaint made to the Select-Men, that any whom they may have admitted as aforesaid, do not behave and conduct themselves orderly, peaceably and quietly towards their Employers, it being made to appear, the Party accused being seasonably notified thereof, such Person may be removed, and other meet and orderly Persons admitted in his Room. Select-Men to take Security for the Porters Fidelity.
Disorderly Porters to be removed.

Provided, This Act be in Force, and so continue for the Space of seven Years from the Publication thereof, and no longer. Limitation.

Reviv'd and Continu'd till July 1. 1770.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the eighth Day of *July* 1741. And continued by Prorogation and Adjournments to Wednesday the twenty-fifth Day of *November* following.

CHAP. III.

An Act to retrench the extraordinary Expence at Funerals.

WHEREAS the giving of Scarves, Gloves, Wine, Rum, and Rings, at Funerals, is a great and unnecessary Expence, and while practised will be detrimental to the Province, and tend to the impoverishing of many Families. Preamble.

Be it therefore enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That no Scarves, Gloves (except six Pair to the Bearers, and one Pair

No Scarves,
Rings, Gloves
Wine or Rum
to be given at
Funerals,
saving.

Pair to each Minister of the Church or Congregation where any deceased Person belongs) Wine, Rum or Rings shall be allowed and given at any Funeral, upon the Penalty of *Fifty Pounds*, to be forfeited by the Executor or Administrator to the Will or Estate of the Person interred, or other Person that regulates or is at the Expence of the Funeral, (to be paid by him out of his own Estate) to be recovered by Action, Bill, Plaint or Information, in any of His Majesty's Courts of Record proper to try the same; one Moiety to him that shall inform and sue for the same, the other Moiety for the Use of the Poor of such Town where the Person interred did last belong. And the Grand Jurors in the several Counties are hereby strictly enjoined diligently to inquire after, and make Presentment of the Breaches of this Act.

Limitation. This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

[*The foregoing Act was Published January 18. 1741.*]

Continu'd to July 1. 1770.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-sixth Day of *May* 1742.

CHAP. I.

An Act in Addition to and for rendering more effectual an Act for regulating the Assize of Cask, and preventing Deceit in packing of Fish, Beef and Pork for Sale, made in the fourth Year of the Reign of King *William* and Queen *Mary*; and also for the preventing Fraud and Injustice in the measuring of Grain.

Preamble.

WHEREAS there does daily appear great Fraud and Deceit in the packing of Beef and Pork and other Provisions, the Produce of other Colonies vended or consumed in this Province; and whereas the Act or Law already made for preventing such Fraud and Deceit hath been found ineffectual for that Purpose, so that a further Provision is necessary to be made:

Be

Affize of Cask, &c.

17

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the first Day of October next, all Barrells and other Casks of Pork, Beef, Fish or other Provision imported into this Province, shall be repacked and pickled before the same shall be sold or exposed to Sale to any Person whatsoever, which repacking and pickling shall be performed and done by fit Persons appointed for that Purpose, for every Town where such Provisions are usually brought for Sale, or from whence they are exported for a foreign Market: And the Justices of the Peace in the several Counties are hereby empowered and directed at their first General Quarter-Sessions to be holden in each respective County in this Province, yearly to appoint a suitable Number of Persons for each Town as aforesaid, and to swear them to the due and faithful Execution of their Office; and any such Person so appointed refusing to officiate, shall be liable and subject as in and by the Act of the fourth of King William and Queen Mary.

Pork, Beef, & Fish to be repack'd and pickled.

Packer to be chose & sworn

And be it further enacted, That all Cask used for packing Fish, Beef, Pork, or any other Commodity imported as aforesaid within this Province, being of the full Affize required in the aforesaid Act, and as free of Sap as may be, each and every Barrel of merchantable Pork imported here when exposed to Sale in any Town or Place within this Province where such Officers or Packers shall have been appointed as aforesaid, after being repacked as aforesaid, shall contain at least two hundred and twenty Pounds of Pork, and there shall not be pack'd in any Barrel more than four Legs, four Shoulders, and four half Heads, and every Half-Barrel and greater or lesser Cask shall be in Proportion; and each and every Barrel of merchantable Beef shall contain no more than three Legs or Shins; and the Packer shall be allowed six Pence per Barrel for every Barrel repack'd as aforesaid, and in Proportion for larger Cask.

Affize of Cask and Quantity of Meat, &c.

And be it further enacted, That every Packer to be appointed as aforesaid after repacking and pickling any Beef, Pork, Fish, or other Commodities, shall set a Brand or Mark with the first Letters of his Christian and Surname, and the Town where he dwells at length, on all such Cask, Barrells or Half-Barrells, wherein he hath repacked and pickled any Beef, Pork, Fish or other Provisions: And in Case any such Packer appointed and sworn as aforesaid, shall be guilty of any Fraud or Deceit in packing or repacking any Beef, Pork, Fish, or other Provisions, or any Cask used for packing or repacking the same, contrary to the true Intent and Meaning of this Act, shall forfeit and pay the Sum of forty Shillings for every Cask or Barrel of Provision so deceitfully packed or repacked, one Half to the Informer who shall sue for the same, in any of His Majesty's Courts of Record within this Province, proper to try the same; the other Half to the Poor of the Town where such Offence is committed.

Cask to be mark'd after repacking.

Penalty for Packers not doing their Duty.

And for rendering the said Act more effectual.

Be it further enacted, That whosoever shall sell or expose to Sale any Barrells or other Casks of Beef, Pork or any other Provisions imported into any Town within this Province where such Packers shall be appointed as aforesaid, before the same shall be repacked and pickled and branded by the Packer thereof as aforesaid, shall forfeit and pay the Sum of twenty Shillings per Barrel for every Offence, one Half to the Informer who shall sue for the same before any of His Majesty's Courts of Record proper to try the same, the other Half to the Poor of the Town where such Offence is committed.

Penalty for selling Provisions not repack'd.

[F]

And

Measurers of
Corn, their
Duty & Fee.

And be it further enacted, That there be a suitable Number of Measurers of Corn and all Sort of Grain in every Sea Port Town within this Province, to be appointed as aforesaid, who being likewise sworn for the faithful Discharge of that Office, at the Request of the Purchaser, shall measure all Corn and Grain that shall be imported and sold out of any Ship or other Vessel, and shall have and receive of him *One Farthing* per Bushel, for every Bushel of Corn or Grain by him so measured, when the Quantity measured exceeds ten Bushels, and *One Half-Penny* per Bushel when the Quantity be less than ten Bushels.

Penalty for
refusing to
have Grain
measured as
above.

And be it further enacted, That whosoever shall expose to Sale within the said Province any Corn or other Grain, and shall refuse to suffer the same to be measured as aforesaid, being requested thereto by the Purchaser, shall forfeit and pay *forty Shillings* to such Person or Persons as shall make Proof thereof to any of His Majesty's Justices of the Peace.

Winebush
Measures to be
used for Grain

Penalty on
the Measurers
Neglect of
their Duty.

And be it further enacted, That every such Measurer of Corn and Grain as aforesaid, shall (at the Expence of the respective Towns they belong to) be provided each with two Half-Bushels *Winebush* Measures, which shall on the Top thereof have two Strips of Iron, each crossing the same on a Level, to prevent any Deceit in striking the said Measure when full of Grain; and in Case any such Measurer of Grain shall be guilty of any Fraud or Deceit in measuring any Sort of Grain, he shall forfeit and pay the Sum of *five Pounds*; and in Case of his Refusal to attend the aforesaid Service when he shall be thereto requested, he shall forfeit and pay the Sum of *five Shillings* for each and every Offence, to be recovered and disposed of as aforesaid.

Limitation.

This Act to continue and be in Force for the Space of *three Years* from the Publication thereof, and no longer.

Reviv'd and Continued till July 1, 1767.

C H A P. II.

An Act to prevent Damage being done unto *Billingsgate Bay* in the Town of *Eastham*, by Cattle and Horse-Kind and Sheep feeding on the Beach and Islands adjoining thereto.

Preamble.

WHEREAS many Persons frequently drive Numbers of neat Cattle, Horse-Kind and Sheep to feed upon the Beach and Islands adjoining to *Billingsgate Bay*, whereby the Ground is much broken and dammified, and the Sand blown into the Bay, to the great Damage not only of private Persons in their Employment of getting Oysters, but also to the Publick, by filling up said Bay, which is often used by Seamen in Strefs of Weather:

Billingsgate Bay.

Be it therefore enacted by the Governor, Council, and House of Representatives, That from and after the Publication of this Act, no Person or Persons shall presume to turn or drive any neat Cattle, or Horse-Kind, or Sheep to or upon the Islands or Beach lying Westerly of Billingsgate Bay and South of Griffin's Island (so called) in the Town of Eastham, to feed thereon, upon the Penalty of ten Shillings a Head for all neat Cattle, and for every Horse or Mare, and two Shillings and six Pence for each Sheep that shall be turned or found feeding on said Islands and Beach which lie South of Griffin's Island; which Penalty shall be recovered by the Select-Men or Treasurer of the said Town of Eastham, or any other Person that shall inform and sue for the same, the one Half of the said Forfeiture to him or them who shall inform and sue for the same, the other Half to be to and for the Use of the Poor of the said Town.

Horses, Cattle and Sheep not to feed on Billingsgate Beach &c.

Penalty.

And be it further enacted, That if any neat Cattle, or Horse-Kind, or Sheep shall at any Time hereafter be found feeding on the said Islands and Beach South of Griffin's Island, that it shall and may be lawful for any Person to impound the same, immediately giving Notice to the Owners, if known, otherwise to give publick Notice thereof in the said Town of Eastham, and the two next adjoining Towns; and the Impounder shall relieve the Creatures with suitable Meat and Water while impounded; and if the Owner thereof appear, he shall pay the Sum of two Shillings and six Pence to the Impounders for each neat Beast and Horse-Kind, and eight Pence for each Sheep, and the reasonable Cost of relieving them besides the Pound-keeper's Fees: And if no Owner appear within the Space of six Days to redeem the said Cattle or Horse-Kind or Sheep so impounded, and to pay the Damages and Costs occasioned by impounding the same; then and in every such Case, the Person or Persons impounding such Cattle, or Horse-Kind, or Sheep, shall cause the same to be sold at publick Vendue, to pay the Cost and Charges arising about the same (publick Notice of the Time and Place of such Sale to be given in the said Town of Eastham and in the Town of Truro, forty eight Hours before-hand, and the Overplus (if any there be) arising by such Sale, to be returned to the Owner of such Cattle, or Horse-Kind, or Sheep, at any Time within twelve Months next after, upon his demanding the same; but if no Owner appear within the said twelve Months, then the said Overplus shall be, one Half to the Party impounding, and the other Half to the Use of the Poor of the said Town of Eastham.

Cattle to be impounded if found feeding on the Beach &c.

Rules referring to such impounded Cattle.

And be it further enacted, That the said Town of Eastham at their Meeting in March annually for the Choice of Town Officers, be authorized and impowered to chuse one or more meet Person or Persons, whose Duty it shall be to see that this Act be observed, and prosecute the Breakers thereof, who shall be sworn to the faithful Discharge of their Office; and in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay ten Shillings to the Poor of the said Town of Eastham; and the said Town of Eastham at a Town Meeting warned for that Purpose, may at any Time before March next, chuse such Officers, who shall continue until their annual Meeting in March next.

Officers may be chosen to put this Act in Execution.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Limitation.

[The two foregoing Acts were Published July 5. 1742.]

Reviv'd and Continu'd till July 1. 1767.

CHAP.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-sixth Day of *May* 1742. And continued by Adjournments and Prorogations unto Thursday the eighteenth of *November* following.

C H A P. III.

An Act for making more effectual an Act Intituled, An Act for regulating the Militia.

Preamble.

WHEREAS the several Penalties set or ordered to be imposed by the said Act Intituled, An Act for regulating the Militia, made and passed in the fifth Year of the Reign of King William and Queen Mary, do not answer the good Design proposed in said Act:

For Remedy whereof;

Clerks may
destrain or sue
for Fines.

Be it enacted by the Governor, Council and House of Representatives, That the Clerk of each respective Company may *ex Officio* destrain for any Fine or Penalty for Breach of any of the Clauses or Paragraphs in the aforesaid Act, for Breach of which he might have destrained by Force of said Act, or may recover the same by Action of Debt before a Justice of the Peace or any Court of Record proper to try the same; all the said Forfeitures to be applied to the Uses mentioned in said Act.

Shall keep
fair Accounts.Purchase of
Drums, &c. by
the Captain's
Order.

And for preventing the Misapplication of the Money to be levied and collected for Breach of said Act

Be it further enacted, That the Clerk of each Troop or Company shall make and fairly enter in a Book (to be kept for that purpose) a particular Account of the several Fines and Forfeitures collected and recovered as aforesaid, and of the Monies so collected he shall lay out and improve so much as shall be necessary (his own Fees as by Law established being first deducted) for purchasing of Drums, Colours, Halberds, and other Necessaries for the Use of the Troop or Company whereunto he belongs, as from Time to Time he shall receive Orders from the Captain or chief Officer in writing under his Hand; and every such Clerk shall likewise make a fair Entry of his several Disbursements of the Money by him collected, setting forth the Use to which the same has been applied, and some time in the Month of *March* yearly, if required, deliver to the Captain, and to such others as are or may be concerned in ordering the Disposition of any Part of the

Seizing

Anno Regni Regis GEORGII, II. Decimo Sexto.

1742.

Militia.

21

the Monies so collected, an attested Copy of such Account of his Receipts and Disbursements, and shall receive for his Trouble therein (to be paid out of the Fines) such Recompence as the Commission Officers of such Company shall judge reasonable; and the Overplus (if any be) on Ballance of such Account shall in the Month of *March* annually render to the Treasurer of the Town where such Company is, to be improved for the purchasing of Arms, Powder, Bullets, and such other Ammunition for a Town Stock, as by said Act is required: And every Military Clerk shall be under Oath (to be administered to him by a Justice of the Peace for the same County) for the faithful Discharge of his Duty and Trust in every of the Particulars before mentioned; and upon Conviction before the Court of General Sessions of the Peace (upon Complaint made) of Neglect therein, shall forfeit and pay the Sum of *five Pounds* to be laid out and improved for the Purposes aforesaid.

And render the Overplus to the Town Treasurer.

And be sworn to Faithfulness in his Office.

And be it further enacted, That upon the Death or Removal of any military Clerk, his Successor in the said Office shall have Power, and is hereby authorized to demand, sue for and recover of such Clerk, (if living) and of the Executors or Administrators of any Clerk deceased, such Sum or Sums of Money (collected as aforesaid) as remained in his Hands at the Time of his Death or Removal, and not applied to the Use of such Company according to the Directions of the Law.

Succeeding Clerk to recover what is not accounted for.

And be it further enacted, That when any Servant, Apprentice or other Person under the Age of twenty one Years, liable by Law to train, and having been duly warned (not less than four Days Notice before Hand to be accounted sufficient, unless in Case of an Alarm or other extraordinary Occasion) shall not attend on military Exercises on training Days, or on military Watches, the Master, Parent or other Person who hath the immediate Care and Government of such Delinquent, shall be answerable for such Neglect, and be obliged to satisfy and pay the Fine by Law imposed for such Delinquency, and shall be liable to a Suit for the same as above provided.

Masters and Parents shall answer the Fines of Minors.

And be it further enacted, That every Person listed and orderly admitted into any Company, shall so continue and attend his Duty there, unless such Person (by Name) be dismiss'd by writing under the Hand of the chief Officer of the Company or Regiment to which he belongs, or of the Captain General or Commander in Chief of the Province, or be removed out of the Town or Precinct, on Pain of incurring (for each Offence or Neglect) already the Penalty by Law provided in Case of Non-appearance on training Days.

How Soldiers of any Company may be dismiss'd.

This Act to continue and be in Force for the Term of seven Years from the Publication thereof and no longer.

Limitation

Reviv'd and Continu'd till July 1. 1770.

C H A P. IV.

An Act to prevent the Spreading of the Small-Pox and other infectious Sickness, and to prevent the Concealing the same.

Preamble.

WHEREAS the Inhabitants of sundry Towns in this Province are often exposed to the Infection of the Small-Pox and other malignant contagious Distempers, by Persons coming from the neighbouring Governments visited with such infectious Sickness, and by Goods transported hither that carry Infection with them :

Within two
Hours to give
Notice of their
coming, on
Pain of 20 £.

To depart in
two Hours on
Pain of 20 £.

He that en-
tertains him
shall forfeit
20 £.

Persons to be
appointed to
examine Tra-
vellers, &c.
and stay them
from travel-
ling on Pain
of 20 £.

Be it therefore enacted by the Governor, Council and House of Representatives, That any Person or Persons coming from any Place (in either of the neighbouring Colonies or Provinces) where the Small-Pox or other malignant infectious Distemper is prevailing, into any Town within this Province, who shall not within the Space of two Hours from their first coming or from the Time they shall first be informed of their Duty by Law in this Particular, give Notice to one or more of the Select-Men or Town Clerk of such Town of their coming thither, and of the Place from whence they came, shall forfeit and pay the Sum of *twenty Pounds* ; and if any Person or Persons coming into any Town of this Province from any such Place visited with the Small-Pox or other infectious Sickness, shall not within the Space of two Hours (after Warning given him or them for that Purpose by the Select-Men of such Town) depart out of this Province, in such Case it shall and may be lawful for any Justice of the Peace of such County by Warrant directed to a Constable or other proper Officer, to cause such Person or Persons to be removed (with any their Goods that may probably give Infection) unto the Colony or Government from whence they came, and any Person removed by Warrant as aforesaid, who (during the Prevalency of such Distemper) shall presume to return into any Town of this Province without Liberty first obtained from such Justice, or from the Select-Men of such Town, shall forfeit and pay the Sum of *One Hundred Pounds*.

And be it further enacted, That any Inhabitant of this Province who shall entertain in his House any Person warned to depart as aforesaid, by the Space of two Hours after Notice given him or her by one or more of the Select-Men of such Warning, shall forfeit and pay the Sum of *twenty Pounds*.

And be it further enacted, That it shall and may be lawful for the Select-Men of any Town or Towns near to or bordering on either of the neighbouring Governments, to appoint (by Writing under their Hands) some meet Person or Persons, to attend at Ferries or other Places by or over which Passengers and Travellers coming from such infected Places may pass or be transported ; which Person or Persons so appointed shall have Power to examine such Passengers and Travellers as they may suspect to bring Infection with them, and (if Need be) to hinder and restrain them from travelling, till licenced thereto by a Justice of the Peace within such County, or by the Select-Men of the Town into which such Person or Persons shall come ; and any

Passen-

Small-Pox, &c.

Passenger who coming from such infected Place shall (without Licence as aforesaid) presume to travel or abide in this Province after they shall have been cautioned and admonished (by the Person or Persons appointed as aforesaid) to depart, shall forfeit and pay the Sum of *twenty Pounds*, and be removed thence by Warrant as aforesaid.

The several Forfeitures arising by Virtue of this Act, to be one Moiety to and for the Use of the Town where the Offence shall be committed, the other Moiety to him or them who shall inform and sue for the same in any of His Majesty's Courts of Record within this Province. Use of the Fines.

And be it further enacted, That from and after the Publication of this Act, when any Person is visited with the Small Pox in any Town of this Province, immediately upon Knowledge thereof, the Head of the Family in which such Person is sick, shall acquaint the Select-Men of the Town therewith, and also hang out on a Pole at least six Feet in length, a red Cloth not under one Yard long and half a Yard wide, from the most publick Part of the infected House, the said Sign thus to continue 'till the House in the Judgment of the Select-Men is thoroughly aired and cleansed, upon Penalty of forfeiting and paying the Sum of *fifty Pounds* for each Offence, one Half for the Informer, and the other Half for the Use of the Poor of the Town where such Offence shall be committed, to be sued for and recovered by the Treasurer of the Town, or the Informer, by Action, Bill, Plaint or Information in any of His Majesty's Courts of Record, and if the Party be unable or refuses to pay such Fine, then to be punished by Whipping, not exceeding thirty Stripes. A Pole and red Cloth to be hung out of an infected House on Pain of 50 £.

And be it further enacted, That when the Small-Pox is in any Town of this Province, and any Person in said Town (not having had the same) shall then be taken sick, and any pestulous Eruptions appear, the Head of that Family wherein such Person is, shall immediately acquaint one or more of the Select-Men of the Town therewith, (that so the said Select-Men may give Directions therein) upon Penalty of forfeiting the Sum of *Fifty Pounds*, to be recovered and applied for the Uses aforesaid, the whole Charge to be born by the Person thus visited, if able to defrey the same, but if in the Judgment of the Select-Men of the Town such Person is indigent and unable, then the said Charge to be born by the Town whereto he or she belongs. To inform the Select-Men of Symptoms on Penalty of 50 £.

Provided always, That this Act shall not be understood to extend to Persons in any Town where more than twenty Families are known to be visited with the Small-Pox at one and the same Time.

This Act to continue and be in Force for the Space of seven Years, and no longer. Limitation.

Reviv'd and Continu'd to July 1. 1770.

C H A P. V.

An Act to prevent unnecessary Law Suits.

Preamble.

WHEREAS it frequently happens in Controversies upon Book Debts or single Contracts, that when the Action comes upon Trial, the Defendant pleads and urges Payment; and as an Evidence produces his Accompt: And whereas the common Practice is to give Judgment without admitting any Account in Favour of the Defendant, whereby he is necessitated to bring forward a Suit himself, which occasions a further Cost, and sometimes exposeth him to the Loss of his Debt, by Reason of the original Plaintiff's Poverty and absconding.

The Defendant on single Contract may give his Account in Evidence to ballance the Demand and prove it as the Plaintiff may his.

Be it therefore enacted by the Governor, Council, and House of Representatives in General Court assembled, That when and so often as any Person is or shall be served with an original Process in any Action or Plea, either of Debt or of the Case for any Sum of Money due upon single Contract between the Parties for any Goods sold or Service done, due by Account, whether such Account be open, or a Ballance thereof be made and sign'd by the Parties, to appear before any Justice of the Peace or Inferiour Court of Common Pleas, before whom such Case is cognizable, he shall be allowed by the Court either to plead specially, or upon the general Issue give his Account in Evidence by Way of Ballance to the Plaintiff's Demand, and be admitted to all such Method and Course of proving his Account, as any Plaintiff upon his Suit might; and the Course of Justice before whom such Trial shall be, are hereby directed and impowered to compare and ballance the Accounts of Plaintiff and Defendant, and to give Judgment for so much only as shall appear upon such Ballance due to the Plaintiff, and if nothing appear due to the Plaintiff on such Ballance, to give Judgment for Costs to the Defendant.

And to the Intent the Plaintiff may have sufficient Opportunity to examine and make all just Objections to the Defendant's Account:

And shall therefore file his Account before-hand.

Be it further enacted, That no Defendant shall be admitted to produce or give his Account in Evidence upon any Suit or Trial as above, in a Cause triable before a Justice of the Peace, unless he shall have left a Copy of such Account four Days at least before the Day of Trial, with the Justice before whom the same is to be tried; and if the Cause be before the Inferiour Court of Common Pleas, then a Copy of his Account as above shall be left with the Clerk of the Court at least seven Days before the Day of the Court's Sitting; and the Justice of the Peace and Clerk of the Court respectively, are hereby directed and required at the Desire of the Plaintiff or his Attorney to grant a Copy of such Account.

Limitation.

This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and from thence to the End of the next Session of the General Court, and no longer.

Reviv'd and Continu'd till July 1. 1770.

C H A P. VI.

An Act in Addition to the several Acts for regulating the Assize of Casks, and preventing Deceit in the packing of Fish, Beef and Pork for Sale.

WHEREAS it is required in and by the several Acts for regulating the Assize of Cask, and preventing Deceit in the packing of Fish, Beef and Pork for Sale, that the Cask used for packing Provisions should be made free of Sap, which may occasion some Difficulty to the Packers, who may apprehend themselves obliged to refuse some Cask which may be every Way sufficient, tho' not exactly conformable to the Words of the Law as it now stands : Preamble,

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act, the Packers of Fish, Beef and Pork, be and hereby are allowed to pass as Merchantable and according to Law any Cask used in packing the Commodities aforesaid, which they in their best Judgment shall think sufficient to hold Pickle without Danger of leaking, altho' the Staves of which the said Cask are made may not be intirely free from Sap. The Packers to allow Cask.

And as the Allowance by Law to the Packers is found insufficient ;

Be it further enacted, That for packing or repacking and pickling each Barrel of Pork, Beef or Fish, the Packer shall be allowed twelve Pence and in Proportion for greater or less Cask, except where the Buyer and Seller shall agree that the Pork, Beef, or Fish shall not be pickled (as not being for Exportation) in which Case the Allowance shall be nine Pence only, and the Packer shall be paid by the Person selling the Commodities aforesaid. Allow'd 12d. or 9d.

This Act to continue and be in Force until the fifth Day of July, One Thousand seven Hundred and forty five, and no longer.

Reviv'd and Continu'd to July 1. 1770.

C H A P. VII.

An Act to prevent the Multiplicity of Law Suits.

WHEREAS of late it hath been the Practice of some of the Sheriffs, Under-Sheriffs, or their Deputies within this Province, to receive from some of the Justices of the Peace, and the Clerks of the Court within the respective Counties, blank Preamble,

[H]

Writs,

Gaming for Money.

Writs, and then fill them up and serve them, and sometimes appear by Virtue of a Power of Attorney to pursue the same; which Practice has a Tendency very much to increase the Number of Law Suits, and to a partial Administration of Justice:

For Remedy whereof:

Sheriffs not to fill up Writs.

Be it enacted by the Governor, Council and House of Representatives, That no Sheriff, Under-Sheriff, or Deputy-Sheriff within this Province, from and after the Publication of this Act, shall presume to draw or fill up any Writ for any Matter or thing whatsoever triable before any of His Majesty's Justices of the Peace or Courts of Record within this Province, or be any Ways of Advice or Assistance therein, unless in Cases where he or they are concerned as Plaintiff; and in Case it appears to the Justice or Court to whom such Writ is returned, that any Writ was so drawn or fill'd up as aforesaid, such Justice or Court shall dismiss the same, and allow Costs for the Defendant.

Nor appear by power of Attorney, &c.

And be it further enacted, That no Appearance of any Sheriff, his Under-Sheriff or Deputy before any Justice of the Peace or Court of Record, by Virtue of a Power of Attorney, shall be allowed good to any Intent or Purpose whatsoever, in the County where he is an Officer, except where the Party giving the Power lives out of the Province, and in this Case his Appearance shall not be allowed if he filled the Writ.

Limitation.

This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and no longer.

Reviv'd and Continued 'till July 1. 1767.

C H A P. VIII.

An Act to prevent Gaming for Money or other Gain.

Preamble.

WHEREAS Games and Exercises although lawful should not be otherwise used than as innocent and moderate Recreations, and not as Trades or Callings, to gain a Living, or make unlawful Advantage thereby:

All Security for Money won at Gaming or betting upon Games shall be void.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the twenty-fifth Day of March which will be in the Year of our Lord, One Thousand seven Hundred and forty three, all Notes, Bills, Bonds, Judgments, Mortgages or other Securities or Conveyances whatsoever given, granted drawn or enter'd into, or executed by any Person or Persons whatsoever, where the whole or any Part of the Consideration of such Conveyances or Securities shall be for any Money or other valuable Thing whatsoever, won by Gaming, or playing at Cards, Dice, Tables, Tennis, Bowles or other Game or Games whatsoever, or by betting on the Side or Hands of such as do game at any

Gaming for Money.

of the Games aforesaid, or for the reimbursing or repaying any Money knowingly lent or advanced for such Gaming or betting as aforesaid, or lent or advanced at the Time and Place of such Play to any Person or Persons so Gaming or betting as aforesaid, or that shall during such Play, so play or bett, shall be utterly void, frustrate and of none Effect to all Intents and Purposes whatsoever, and that where such Mortgages, Securities, or other Conveyances shall be of Lands, Tenements or Hereditaments, or shall be such as incumber or affect the same, such Mortgages, Securities or other Conveyances, shall enure and be to and for the sole Use and Benefit of and shall devolve upon such Person or Persons as should or might have or be intitled to such Lands, Tenements or Hereditaments in Case the said Grantor or Grantors thereof, or the Person or Persons so incumbering the same, had been naturally dead, and as if such Mortgages, Securities or other Conveyances had been made to such Person or Persons so to be intitled after the Decease of the Person or Persons so incumbering the same, and that all Grants or Conveyances to be made for the preventing of such Lands, Tenements or Hereditaments from coming to or devolving upon such Person or Persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void and of none Effect to all Intents and Purposes whatsoever.

To whom the Estate shall then come.

And be it further enacted, That from and after the said twenty-fifth Day of March, any Person or Persons whatsoever who shall at any Time or Sitting by playing at Cards, Dice, Tables or other Game or Games whatsoever, or by betting on the Sides or Hands of such as do play at any Game or Games as aforesaid, lose to any one or more Person or Persons so playing or betting, any Sum or Sums of Money, or any other valuable Thing whatsoever, and shall pay or deliver the same or any Part thereof, the Person or Persons so losing and paying or delivering the same shall be at Liberty within three Months then next after, to sue for and recover the Money or Goods so lost and paid or delivered or any Part thereof from the respective Winner or Winners thereof, with Costs of Suit by Action of Debt founded on this Act, to be prosecuted in any of His Majesty's Courts of Record, in which Actions or Suits no Essoign, Protection, Wager of Law, or more than one Imparance shall be allowed, in which Actions it shall be sufficient for the Plaintiff to alledge that the Defendant or Defendants are indebted to the Plaintiff or received to the Plaintiff's Use, the Monies so lost and paid, or converted the Goods won of the Plaintiff's to the Defendant's Use, whereby the Plaintiff's Action accrued to him according to the Form of this Act, without setting forth the special Matter, and in Case the Person or Persons who shall lose such Money or other Thing as aforesaid, shall not within the Time aforesaid really and *bona fide*, and without Coven or Collusion sue, and with Effect prosecute for the Money or other Thing so by him or them lost and paid, or delivered as aforesaid, it shall and may be lawful to and for any Person or Persons, by any such Action or Suit as aforesaid to sue for and recover the same and treble the Value thereof with Costs of Suit against such Winner or Winners as aforesaid, the one Moiety thereof to the Use of the Person or Persons that will sue for the same, and the other Moiety to the Use of the Poor of the Town where the Offence shall be committed.

The Loser after Payment may recover it back.

In Default thereof any other Person may sue and recover treble the Value of the Winner.

And for the better Discovery of the Monies or other Thing so won and to be sued for and recovered as aforesaid:

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Gaming for Money.

Writs, and then fill them up and serve them, and sometimes appear by Virtue of a Power of Attorney to pursue the same; which Practice has a Tendency very much to increase the Number of Law Suits, and to a partial Administration of Justice:

For Remedy whereof:

Be it enacted by the Governor, Council and House of Representatives, That no Sheriff, Under-Sheriff, or Deputy-Sheriff within this Province, from and after the Publication of this Act, shall presume to draw or fill up any Writ for any Matter or thing whatsoever triable before any of His Majesty's Justices of the Peace or Courts of Record within this Province, or be any Ways of Advice or Assistance therein, unless in Cases where he or they are concerned as Plaintiff; and in Case it appears to the Justice or Court to whom such Writ is returned, that any Writ was so drawn or fill'd up as aforesaid, such Justice or Court shall dismiss the same, and allow Costs for the Defendant.

Sheriffs not to fill up Writs.

And be it further enacted, That no Appearance of any Sheriff, his Under-Sheriff or Deputy before any Justice of the Peace or Court of Record, by Virtue of a Power of Attorney, shall be allowed good to any Intent or Purpose whatsoever, in the County where he is an Officer, except where the Party giving the Power lives out of the Province, and in this Case his Appearance shall not be allowed if he filled the Writ.

Nor appear by power of Attorney, &c.

Limitation.

This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and no longer.

Reviv'd and Continued 'till July 1. 1767.

C H A P. VIII.

An Act to prevent Gaming for Money or other Gain.

Preamble.

WHEREAS Games and Exercises although lawful should not be otherwise used than as innocent and moderate Recreations, and not as Trades or Callings, to gain a Living, or make unlawful Advantage thereby:

All Security for Money won at Gaming or betting upon Games shall be void.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the twenty-fifth Day of March which will be in the Year of our Lord, One Thousand seven Hundred and forty three, all Notes, Bills, Bonds, Judgments, Mortgages or other Securities or Conveyances whatsoever given, granted drawn or enter'd into, or executed by any Person or Persons whatsoever, where the whole or any Part of the Consideration of such Conveyances or Securities shall be for any Money or other valuable Thing whatsoever, won by Gaming, or playing at Cards, Dice, Tables, Tennis, Bowles or other Game or Games whatsoever, or by betting on the Side or Hands of such as do game at any of

Gaming for Money.

of the Games aforesaid, or for the reimbursing or repaying any Money knowingly lent or advanced for such Gaming or betting as aforesaid, or lent or advanced at the Time and Place of such Play to any Person or Persons so Gaming or betting as aforesaid, or that shall during such Play, so play or bett, shall be utterly void, frustrate and of none Effect to all Intents and Purposes whatsoever, and that where such Mortgages, Securities, or other Conveyances shall be of Lands, Tenements or Hereditaments, or shall be such as incumber or affect the same, such Mortgages, Securities or other Conveyances, shall enure and be to and for the sole Use and Benefit of and shall devolve upon such Person or Persons as should or might have or be intitled to such Lands, Tenements or Hereditaments in Case the said Grantor or Grantors thereof, or the Person or Persons so incumbering the same, had been naturally dead, and as if such Mortgages, Securities or other Conveyances had been made to such Person or Persons so to be intitled after the Decease of the Person or Persons so incumbering the same, and that all Grants or Conveyances to be made for the preventing of such Lands, Tenements or Hereditaments from coming to or devolving upon such Person or Persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void and of none Effect to all Intents and Purposes whatsoever.

To whom the Estate shall then come.

And be it further enacted, That from and after the said twenty-fifth Day of March, any Person or Persons whatsoever who shall at any Time or Sitting by playing at Cards, Dice, Tables or other Game or Games whatsoever, or by betting on the Sides or Hands of such as do play at any Game or Games as aforesaid, lose to any one or more Person or Persons so playing or betting, any Sum or Sums of Money, or any other valuable Thing whatsoever, and shall pay or deliver the same or any Part thereof, the Person or Persons so losing and paying or delivering the same shall be at Liberty within three Months then next after, to sue for and recover the Money or Goods so lost and paid or delivered or any Part thereof from the respective Winner or Winners thereof, with Costs of Suit by Action of Debt founded on this Act, to be prosecuted in any of His Majesty's Courts of Record, in which Actions or Suits no Essoign, Protection, Wager of Law, or more than one Imparance shall be allowed, in which Actions it shall be sufficient for the Plaintiff to alledge that the Defendant or Defendants are indebted to the Plaintiff or received to the Plaintiff's Use, the Monies so lost and paid, or converted the Goods won of the Plaintiff's to the Defendant's Use, whereby the Plaintiff's Action accrued to him according to the Form of this Act, without setting forth the special Matter, and in Case the Person or Persons who shall lose such Money or other Thing as aforesaid, shall not within the Time aforesaid really and *bona fide*, and without Coven or Collusion sue, and with Effect prosecute for the Money or other Thing so by him or them lost and paid, or delivered as aforesaid, it shall and may be lawful to and for any Person or Persons, by any such Action or Suit as aforesaid to sue for and recover the same and treble the Value thereof with Costs of Suit against such Winner or Winners as aforesaid, the one Moiety thereof to the Use of the Person or Persons that will sue for the same, and the other Moiety to the Use of the Poor of the Town where the Offence shall be committed.

The Loser after Payment may recover it back.

In Default thereof any other Person may sue and recover treble the Value of the Winner.

And for the better Discovery of the Monies or other Thing so won and to be sued for and recovered as aforesaid:

It

The Winner shall discover upon Oath the Sum or Thing so won.

It is hereby further enacted, That all and every the Person or Persons who by Virtue of this present Act shall and may be liable to be sued for the same, shall be obliged and compellable to answer upon Oath such Bill or Bills as shall be preferred against him or them in any of the Courts of Record within this Province, for discovering the Sum and Sums of Money or other Thing so won at Play as aforesaid.

And such Repayment shall excuse the Winner from any other Penalty.

Provided always, and be it nevertheless enacted, That upon the Discovery and Repayment of the Money or other Thing to be so discovered and repaid as aforesaid, the Person or Persons who shall so discover and repay the same as aforesaid, shall be acquitted, indemnified and discharged from any other or further Punishment, Forfeiture or Penalty which he or they may have incurred by the playing for or winning such Money or other Thing so discovered and repaid as aforesaid; any Thing in this present Act contained to the contrary thereof in any wise notwithstanding.

Limitation.

This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and no longer.

Reviv'd and Continu'd to July 1. 1770.

CHAP. IX.

An Act in further Addition to and Explanation of an Act intituled, *An Act for regulating Townships, Choice of Town-Officers, &c.*

Preamble.

WHEREAS in and by an Act made in the fourth Year of the Reign of King William and Queen Mary, intituled An Act for regulating of Townships, Choice of Town-Officers, and setting forth their Power the Freeholders and Inhabitants of each Town who are rateable, at twenty Pounds Estate to one single Rate besides the Poll, are impowered to assemble and to give their Votes in Choice of Town Officers in the Month of March annually, but no Rule of Valuation is therein prescribed, whereby such Estate (qualifying to vote as aforesaid) shall be estimated, nor is it declared whether the like Estate shall qualify a Voter in other Town Affairs; and there being no Law of this Province expressly setting forth and ascertaining the Qualification of Voters in Precincts and Parishes, by Reason of which many Doubts and Controversies have arisen:

For preventing whereof for the future:

All Voters to be Inhabitants present of a certain rateable Estate, &c.

Be it enacted by the Governor, Council and House of Representatives, That henceforward no Person shall be deemed duly qualified, or be admitted to vote in the Choice of Officers, or in the other Affairs to be transacted at any Meeting of the Town, Precinct or Parish where he dwells, but such only who are personally present at such Meeting, and have a rateable Estate in such Town or District (besides the Poll) amounting to the Value of
twenty

twenty Pounds, by the following Method of Estimation, viz. Real Estate to be set at so much only as the Rents or Income thereof for the Space of six Years would amount to, were it let at a reasonable Rate; and personal Estate and Faculty to be estimated according to the Rule of Valuation prescribed in the Act from Time to Time made for apportioning and assessing public Taxes.

And be it further enacted, That when any Dispute shall arise respecting the Qualifications of any Person offering his Vote in any such public Meeting, the same shall be determined by the Moderator of such Meeting, according to the List and Valuation of Estates and Faculties of Persons in such Town or District last made by Assessors under Oath; and if it thereby appear that such Person is not qualified as by this Act is provided, his Vote shall not be received.

Determinable by the Moderator by the last List.

Provided, That the Value of Lands leased shall not be reckoned to qualify the Ter-Tenant, but to qualify the Lessor if he be an Inhabitant in such Town, Precinct or Parish.

The Rate of Lands in lease whom to qualify.

Provided also, That when such Dispute shall happen to arise in any Town, Precinct or Parish Meeting, before a Moderator shall be chosen, in such Case the major Part of the Select-Men then present, or of the Precinct or Parish Committee shall respectively determine the same in Manner as aforesaid, and the Assessors of each Town and District are hereby required to lodge with the Clerk of their respective Towns and Districts an attested Copy of such their List and Valuation from Year to Year, which he shall produce for the Purpose aforesaid as there shall be Occasion, and every Assessor (belonging to such Town or Precinct where the Inhabitants are not usually doomed) neglecting his Duty herein shall forfeit and pay the Sum of forty Shillings, to be recovered before any of His Majesty's Justices of the Peace of the same County.

Such Dispute may be determined by the Select-Men in Case.

Assessors shall lodge a Copy of the List yearly with the Clerk.

And be it further enacted, That if the Moderator of any such Meeting shall countenance and permit any Person not qualified as aforesaid (whose Qualification for voting has been called in Question) to give his Voice in any such Meeting, he shall forfeit and pay the Sum of five Pounds; and whosoever shall presume to put in more than one Vote at a Time, shall forfeit and pay the Sum of five Pounds, one Moiety of the said Forfeitures to be for the Use of the Poor of the Town where the Offence shall be committed, and the other Moiety to him or them that shall inform or sue for the same in any of His Majesty's Courts of Record.

The Moderator permitting a Person unqualified to vote forfeits.

Forfeiture for putting in more than one Vote.

And whereas several Towns of the Province do not give in an exact Account of their rateable Estate, and so the Assessors are obliged to doom the Inhabitants according to the best of their Skill and Judgment, whereby the Qualification of Voters in such Places may be more difficult to come at:

Wherefore,

Be it enacted, That where a full Invoice and Valuation of the rateable Estates in any Town or District is not taken, and the Assessors on Oath do doom the Inhabitants, those Persons only shall be allowed to vote, who are rated two third Parts so much for their Estates and Faculties as for one single Poll in the last Tax of such Town or District respectively.

The Qualification of Voters.

Unruly Dogs on Nantucket.

Saving the
Voters for
Representa-
tives.

Limitation.

Provided always, That nothing in this Act shall be interpreted to exclude any Person from the Privilege of voting in the Choice of Representatives, who are duly qualified therefor according to the Royal CHARTER.

This Act to continue for the Space of four Years, and no longer.

Continu'd to July 1. 1767.

[*The nine foregoing Acts were Published January 17. 1742.*]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England: Begun and Held at Boston upon Wednesday the twenty-sixth Day of May 1742. And continued by Adjournments and Prorogations unto Thursday the thirty-first of March following.

CHAP. I.

An Act for preventing Mischief by unruly Dogs on the Island of Nantucket.

Preamble.

WHEREAS much Damage has been done by unruly and mischievous Dogs in worrying and killing Sheep and Lambs on the Island of Nantucket, by Reason of great Numbers of such Dogs being kept by Indians as well as English Inhabitants there:

Dogs may be
killed in Nan-
tucket.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act it shall and may be lawful for any Person or Persons within the County of Nantucket to kill any Dog or Bitch whatsoever that shall at any Time be found there.

Fine for keep-
ing Dogs.

And be it further enacted, That whosoever shall presume to keep any Dog or Bitch on the said Island of Nantucket after the Publication of this Act, shall forfeit and pay the Sum of one Pound, to be sued for and recovered by the major Part of the Select-Men of the Town of Sherburn for the Time being, before any of His Majesty's Justices of the Peace there, one Half to the Select-Men that shall sue for the same, and the other Half to the Poor of said County.

And

Pine Trees.

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And be it further enacted, That no Action shall lie, be heard or tried at any Court within this Province against such Person as shall kill or destroy any such Dog or Birch found as aforesaid, but shall be utterly barred by Virtue of this Act.

No Action to lie against any Person that kills a Dog.

This Act to continue and be in Force for the Space of three Years from the Publication thereof, and no longer,

Limitation.

[The foregoing Act was Published June 27. 1743.]

Reviv'd and Continu'd till July 1. 1767.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England: Begun and Held at Boston upon Wednesday the twenty-fifth Day of May 1743, and continued by Adjournment and Prorogation to Thursday the twentieth of October following.

C H A P. II.

An Act for preventing the Destruction of white Pine Trees within this Province, and for encouraging the Preservation of them for the Use of the Royal Navy.

WHEREAS their late Majesties King William and Queen Mary in and by their Royal Charter granted to this Province, bearing Date the seventh Day of October, in the third Year of their Reign, did "for the better providing and furnishing of Masts for the Royal Navy reserve to themselves their Heirs and Successors all Trees of the Diameter of twenty four Inches, and upwards of twelve Inches from the Ground, growing upon any Soil or Tract of Land within the said Province or Territory before that not granted to any private Persons;" and also thereby, did restrain and forbid all Persons whatsoever from selling, cutting or destroying any such Trees without the Royal Licence of them their Heirs and Successors first had and obtained:" And whereas the white Pine Trees are more especially fit for masting the Royal Navy: Therefore to render the aforesaid Reservation more effectual to the good Purposes intended hereby:

Preamble.

Be

Offence of
cutting off
Pine Trees fit
for Masts to
be tried in
his Majesty's
Courts, if the
Prosecutor see
Cause.

Be it enacted by the Governor, Council and House of Representatives, That no Person shall at any Time after the Publication of this Act, presume to cut, fell or destroy any white Pine Trees which are or shall (at the Time of felling the same) be of the Diameter of twenty four Inches or upwards of twelve Inches from the Ground, growing or standing in any Soil or Tract of Land within this Province, not granted to any private Person or Persons before the Date of the aforesaid Charter, without His Majesty's Royal Licence for so doing first had and obtained, or to be aiding or assisting therein, or in drawing away the said Pine Trees after the same shall have been so cut, felled or destroyed, on Pain of being prosecuted as well in any of His Majesty's Courts of Record within this Province for the Penalty already by Law inflicted for such Offence, as by Law they already may in the Court of Vice Admiralty, at the Election of the Prosecutor, but not in both: Provided such Prosecution be commenced within six Months from the Time when the Offence shall be committed; which Penalty when recovered shall be applied in such Manner as by Law is already provided.

Preamble.

And whereas the hindering and obstructing the Workmen who may be employed by Virtue of His Majesty's Royal Licence to fell such Trees as is aforesaid growing upon any such Tract of Land as is before mentioned for the Use of the Royal Navy, or vexing them with groundless Suits for what they shall do in that Business, will be very prejudicial to His Majesty's aforesaid Service, by discouraging Workmen from being concerned therein.

Now for Prevention whereof:

Provision a-
gainst cause-
less Actions
bro't against
those that
cut white
Pines by the
King's Li-
cence.

Be it enacted, That from and after the Publication of this Act, no Person or Persons shall presume to hinder or obstruct any Workmen or Workman employed in the aforesaid Service upon any Soil or Tract of Land within this Province, not granted to any private Person or Persons before the Date of the aforesaid Charter: And in Case any Workman employ'd in the aforesaid Service shall be sued in any Action in any of His Majesty's Courts of Judicature for felling or haling away any such Tree or Trees growing or being upon any Soil or Tract of Land not granted to any private Person or Persons before the Date aforesaid, and being of the Diameter of twenty four Inches, and upwards of twelve Inches from the Ground at the Time of felling the same; the Defendant in such Action shall be admitted to plead the general Issue, and to give the special Matter in Evidence: And in Case after Issue joined Judgment shall be given against the Plaintiff or Plaintiffs in such Action, then the Justices of the Court where the Action shall be brought, shall allow to the Defendant double Costs of Suit to be taxed at the same Court.

Limitation.

This Act to continue and be in Force from the Publication thereof three Years and no longer.

Reviv'd and Contin'd to July 1. 1767.

[The foregoing Act was Publish'd November 12. 1743.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-fifth Day of *May* 1743, and continued by Adjournment and Prorogation to Wednesday the eighth Day of *February* following.

CHAP. I.

An Act to prevent unnecessary Expence in Suits at Law.

WHEREAS divers promissary Notes, Bills or other Obligations for Payment of Monies and other Things therein specified, when they are executed by the same Party, and made payable to one and the same Person, and the Possessor or Obligee has put them in Suit at the same Time, have usually been included in one Writ, and may ordinarily be so (where the Promises or Obligations are of the same Kind) without Damage or Inconvenience to the Plaintiff, and with much less Cost and Expence than what would be incurred by so many several and distinct Suits: Notwithstanding which some ill-disposed Persons for the Recovery of what was due to them on such several Notes or other Obligations, have purchased as many distinct Writs; and thereby multiplied their Suits at the same Court, with Intent only to burthen the Defendant with great and unnecessary Cost and Charge:

Preamble.

Therefore to discourage and prevent such Practices for the future:

Be it enacted by the Governor, Council and House of Representatives, That where several Actions shall hereafter be brought in any Court of Record within this Province against the same Person (or Persons jointly) and at the same Term, on several Instruments of the same Kind, whether Notes, Bills or Bonds, that might conveniently have been included in one and the same Writ, in such Case if it shall be suggested or appear to the Court probable, that such Actions were severed and multiplied with Intent only to vex the Defendant or Defendants, or to put him or them to needless Cost and Charge, unless the Plaintiff or Plaintiffs shall shew forth such reasonable Cause for bringing such several and distinct Suits as to the Justices of such Court shall be satisfactory; the Plaintiff or Plaintiffs recovering Judgment thereon shall be allowed Costs in one of such Actions only.

When divers Actions are brought on several Notes or Bonds from the same Person Costs to be given only for one, in Case.

This Act to continue and be in Force for the Space of three Years from the Publication thereof and no longer.

Limitation.

Reviv'd and Continued 'till July 1. 1770.

[The foregoing Act was Published March 22. 1743.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirtieth Day of *May* 1744, and continued by Adjournment and Prorogations to Wednesday the twenty-eighth Day of *November* following.

C H A P. II.

An Act to prevent Mischief being done by unruly Dogs.

Preamble.

WHEREAS much Damage has been done by unruly Dogs in worrying, wounding and killing Neat Cattle, Sheep and Lambs within this Province, to the great Loss of many Persons, the Owners of such Creatures.

For preventing whereof:

Dog or Bitch
to be killed
when found
out of the In-
spection of
the Owner.

Be it enacted by the Governor, Council, and House of Representatives, That from and after the Publication of this Act, it shall and may be lawful to and for any Person or Persons within this Province to kill and destroy any Dog or Bitch whatsoever that shall be found (out of the immediate Care and Inspection of its Owner or Keeper) within or crossing over any common Land, Field or Inclosure (excepting the Land of the Owner of such Dog or Bitch in the Day Time) or that shall be found between Sun-set and Sun-rise, any where out of the Care and Inspection of its Owner as aforesaid; and if the Owner of such Dog or Bitch being known and informed within eight Hours next after of his or her Dog or Bitch's being seen out of the Care and Inspection as aforesaid, and Oath made thereof before some one Justice of the Peace or Town-Clerk, (who is hereby impowered to administer and certify the same) and shall refuse to kill or cause to be killed his Dog or Bitch forthwith, shall forfeit and pay the Sum of *forty Shillings* to the Person who shall inform and sue for the same, by Bill, Plaint or Information, before any of His Majesty's Justices of the Peace in the County where the Owner of such Dog or Bitch dwells.

Owner of
any Dog or
Bitch to pay
Damages.

And be it further enacted, That the Owner of any Dog or Bitch that shall rear or kill any Calves or Neat Cattle, Sheep or Lambs, shall be liable to pay treble Damages to the Person or Persons injured, to be heard and tried before any of His Majesty's Justices of the Peace in the County where the Owner of such mischievous Dog or Bitch dwells, if the Damage exceeds not *forty Shillings*; and where the Damage exceeds that Sum, before any of His Majesty's Courts of Record in the County where the

Eastern Harbour Meadows.

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the Owner dwells as aforesaid, upon Bill, Plaint, Writ or Information as aforesaid.

And be it further enacted, That no Action shall lie, be heard or tried at any Court within this Province against such Person who shall or may kill or destroy any Dog or Bitch found as aforesaid, but shall be utterly barred by Virtue of this Act. Action not to be bro't, &c.

Provided Nevertheless, That this Act shall not extend to, or be in Force in any Town in the County of York, any Thing before therein contained to the contrary notwithstanding. Proviso.

This Act to continue and be in Force for the Space of ten Years from the Publication thereof, and thence to the End of the then next Session of the General Court, and no longer. Limitation.

Reviv'd and Continu'd 'till July 1. 1770.

C H A P III.

An Act to prevent Neat Cattle and Horses running at large and feeding on the Beaches adjoining to Eastern Harbour Meadows in the Town of Truro.

WHEREAS there are certain Meadow Lands within the Township of Truro, in the County of Barnstable, called Eastern Harbour Meadows, on which many of the Inhabitants of said Town depend for their Hay, and the said Meadow Land lies adjoining to two long Sandy Beaches, on which no Fence can well be made to stand, and by Reason of Cattle and Horses trampling and feeding there the Beach Grass which was wont to prevent the driving of the Sand from the Beaches to the Meadows is destroyed, and a great Part of the Meadows already covered with Sand, and become useless for Grass, and the whole in Danger of being buried with the Sands, if not timely prevented: Preamble.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act, no Person shall presume to turn or drive any Neat Cattle or Horses upon the said Beaches or Meadows, to feed, or leave them at large there, on the Penalty of ten Shillings a Head for all Neat-Cattle, and for every Horse-Kind so turned upon any of the said Beaches or Meadows to feed, or that shall be found at large there; which Penalty may be recovered by any of the Proprietors of said Beaches or Meadows; one Moiety thereof to be to the Informer that shall sue for the same, and the other Moiety to be to and for the Use of the Poor of the Town of Truro. Penalty for leaving Cattle & Horse-Kind to feed at large on the Meadows in Truro.

And be it further enacted, That it shall be lawful for any Owner or Proprietor of the said Meadows or Beaches, or other Person finding any Cattle or Horse-Kind feeding or going at large upon the Beaches or Meadows aforesaid, or any of them, to impound the same; and the Person or Persons impounding Cattle, &c. to be impounded, if found feeding at large.

To be sold if
no Owner
appears.

Proprietors
of the Mea-
dows, &c. to
make and
maintain
Fences.

Limitation.

Preamble.

Pound to be
kept & main-
tained by the
Select-Men.

impounding them shall give public Notice thereof in the Town of *Truro* and in the two next adjoining Towns ; and shall relieve said Creatures, whilst impounded, with suitable Meat and Water ; and the Owner thereof appearing, he shall pay to the Impounder *two Shillings and six Pence* Damages for each Head of Neat-Cattle or Horse-Kind so impounded, and Costs of impounding them : And if the Owner do not appear within the Space of six Days and pay the Damage and Costs occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle or Horse-Kind shall cause them to be sold at public Vendue for paying such Damages and Costs, and the Charge arising by such Sale (public Notice of the Time and Place of such Sale being given forty-eight Hours before-hand) and the Overplus (if any be) to be returned to the Owner of such Cattle or Horse-Kind (on his Demand) at any Time within twelve Months next after the Sale ; And if no Owner shall appear within the said twelve Months, then one Moiety of the Overplus shall be to the Party impounding, and the other Moiety thereof to the Use of the Poor of the Town of *Truro*.

And be it further enacted, That the Proprietors of the said Meadows and Beaches, and the Proprietors of the lotted Land on the *Cape*, shall make and maintain a sufficient Fence in equal Proportion betwixt them, or otherwise prevent their Cattle from passing to the eastward of the westerly Part of *Strout's Meadow* (so called) and the Proprietors of the aforesaid Meadows, with the Proprietors of *Truro*, (not having Right in said Meadows) that turn Horses or Cattle on the Commons there, be likewise obliged to erect and maintain a Fence that shall prevent Horses and Cattle from passing to the westward of the East End of Eastern Harbour Meadows, or otherwise to restrain them from feeding or going at large there, on Pain of incurring the Penalty aforesaid for each Head of Cattle or Horse-Kind that shall be found there, and of having them impounded, and otherwise proceeded with in Manner as before-mentioned.

This Act to continue in Force five Years from the Publication thereof, and from thence to the End of the next Session of the General Court, and no longer.

Reviv'd and Continu'd to July 1. 1770.

C H A P. IV.

An Act in Addition to the Act for preventing Damage to the Harbour of *Cape-Cod*, by Cattle and Horse-Kind feeding on *Province-Town* Lands.

WHEREAS the Provision made in and by the Act intituled An Act to prevent Damage being done to the Harbour of *Cape-Cod*, made and passed in the fourteenth Year of his present Majesty's Reign, has been found ineffectual for that End :

Be it therefore enacted by the Governor, Council and House of Representatives, That a sufficient Pound be kept and maintained by the Select-Men of *Province-Town*, in such Part of said Town as they shall judge most commodious

modious for the Inhabitants for Impounding of Creatures that shall be suffered to feed on the Lands there, whether Upland, Meadow or Beach, contrary to the aforesaid Act; and that the reasonable Charge of the erecting and maintaining the same to be repaid them out of the publick Treasury by Warrant from the Governor with the Advice and Consent of the Council.

And be it further enacted, That the Constable of *Province-Town* for the Time being shall, and he is hereby strictly required to take effectual Care that the aforesaid Act be put in Execution for preventing Damage to the Harbour aforesaid; as also one Day in every Week from the first of *April* to the last of *October*, to make diligent Search for Horses and Cattle on *Province-Town* Lands, and to cause such of them to be Impounded as by this Act are not allowed to feed there; and such Constable for every Day he shall faithfully attend said Service, and make Oath thereof before a Justice of the Peace, shall be allowed *one Shilling and three Pence*, to be paid out of the publick Treasury.

Constable to make Search for Horses, &c.

And the Inhabitants of said *Province-Town* are hereby allowed to keep and to suffer to feed on the Lands there one Bull and three Yoke of Oxen amongst the Inhabitants in general, as also one Horse and one Cow for each Family, and no more; save that such Person as shall have Licence to keep an House of publick Entertainment, shall have Liberty to keep two Cows during the Continuance of such his Licence.

What Cattle may feed on the Lands.

And be it further enacted, That whosoever, after the Publication of this Act, shall presume to cut down or carry off any Trees, Poles or Brush from any Part of the Land within the Bounds of *Province-Town* or *Cape-Cod*, standing or growing there within one Hundred and sixty Pole from high Water Mark, shall forfeit and pay the Sum of *five Shillings* for every Tree or Pole, and *one Shilling* for every Bush so cut or carried off: The one Half of said Forfeiture to be to him or them that shall inform and sue for the same, and the other Half to be to and for the Use of the Poor of the said Town of *Province-Town*, to be recovered before a Justice of the Peace of the same County.

Forfeiture for cutting or carrying off Brush.

This Act to continue and be in Force one Year from the Publication thereof, and from thence to the End of the next Session of the General Court, and no longer.

Limitation.

Reviv'd and Continu'd to July 1. 1767.

[The three foregoing Acts were Published April 6. 1745.]

CHAP. V.

An Act to prevent unnecessary Cost being allowed to Parties and Witnesses in the several Courts of Justice within this Province.

Preamble.

WHEREAS oftentimes there are several Plaintiffs or Defendants in one and the same Action, brought either to the Superiour Court, or the Inferiour Court of Common Pleas within the respective Counties, and in taxing the Bills of Cost arising on said Actions, all the Plaintiffs or Defendants mentioned in the Writ so brought are allowed for their Attendance, altho' it frequently happens that only one of the Plaintiffs or Defendants do actually attend, and sometimes neither of them; and inasmuch as an Allowance is sometimes made for Witnesses not summoned, or when summoned for much longer Time than such Witnesses have actually attended the Court, by which Means Bills of Cost are exorbitantly enhanced:

For the Prevention whereof for the future:

Justices of the several Courts to allow Cost but for one Person as Plaintiff or Defendant, except.

Be it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act, neither the Justices of the Superiour Court nor the Justices of the Inferiour Court of Common Pleas in the respective Counties within this Province, shall in taxing any Bills of Cost allow for the Attendance of more than one Person as Plaintiff or Defendant, altho' there are more Plaintiffs or Defendants than one in any Suit or Action, and appear by themselves or by their Attorney or Attorneys (except where the Defendants plead severally) and in Case of the actual Attendance of either Plaintiff or Defendant they shall be allowed in the Bill of Cost for no longer Time than they make evident to the Court the Number of Miles they Travel and Time of their Attendance as aforesaid.

No Person filing a Complaint to be allowed for more than three Days Attendance.

And be it further enacted, That no Person filing a Complaint in the Superiour Court or Inferiour Court respectively for the Affirmation of a former Judgment, shall be allowed at any Time more than three Days Attendance in the Bills of Costs to be taxed by said Courts.

No Witness, not served with a Sub-Pena, to be allowed more than one Days Attendance &c

And be it further enacted, That no Witness giving his or her Deposition in any Case (who shall not be served with a Sub-Pena) shall be allowed in the Bill of Costs any more than one Day's Attendance, nor shall any Witness summoned to appear be allowed for more Days than such Witness shall actually attend, and make it evident to the Court where the Action shall be commenced, by their certifying on the Sub-Pena the Number of Miles of their Travel and Time that he or she has actually attended.

Limitation.

This Act to continue and be in Force for the Space of five Years from the Publication hereof, and no longer.

Revis'd and Continu'd to July 1. 1770.

[The foregoing Act was Published July 11. 1745.]

CHAP.

CHAP.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-ninth Day of *May* 1745, And continued by Adjournments and Prorogations to Wednesday the eleventh Day of *December* following.

CHAP. VI.

An Act in Addition to the Act Intituled, *An Act for appointing Commissioners of Sewers.*

WHEREAS the Water in some Rivers or Streams is raised and kept at such Height by Mill-Dams erected a-cross the same, that it has been found difficult to discover and impracticable to remove the Obstructions that occasion the overflowing of Meadows, whilst the Owners of such Dams have refused to empty their Mill-Ponds, by opening the Flood-Gates or other sufficient Passage for the Water that had been raised by such Dams to flow out, by Means whereof Commissioners of Sewers have been much hindered in the Execution of their Trust, and the Owners of such Meadows have thereby in a great Measure lost the Benefit intended by said Act:

Therefore for preventing the like Inconvenience for the future;

Be it enacted by the Governor, Council and House of Representatives, That when and so often as Commissioners of Sewers shall judge it necessary in order to the well executing their Trust in discovering or removing the natural Obstructions in Rivers or Streams over which any Mill-Dam is erected, that the Water which had thereby been stopt and raised above its usual Height should flow out, in such Case it shall be lawful and such Commissioners are hereby impowered to open or cause to be opened the Flood-Gates, and to cause to be made and opened other needful Sluices or Passages in or about such Dam or Dams, and such Passages to keep open whilst they are using the proper Means for discovering or removing such Obstructions; as also for the more speedy draining of Meadows in Time of great Floods: and in such Manner as that the Owner or Owners of such Mill-Dam or Dams may suffer as little Inconveniences or Damage thereby as may be.

And be it further enacted, That if any Owner of such Mill-Dam shall suffer Damage by the opening or keeping open such Sluices or Passages as aforesaid,

Preamble.

Commissioners of Sewers impowered to open Flood-Gates, &c.

Owners of
Mill-Dams
opened to be
allowed Da-
mages.

aforesaid, the said Commissioners shall order him reasonable Satisfaction (by their Estimation) for such Damage, and shall assess the same on the Proprietors of the overflowed Lands or Meadows, at whose Request and for whose Benefit such Commissioners were appointed, and to cause the same to be collected in Manner as in and by the said Act is provided for collecting of other Charges.

Penalty for
Owners of
Mill-Dams
who shall
molest or hin-
der Commissi-
oners in the
Execution of
their Power.

And be it further enacted, That the Owner or Owners of any Dam or Dams, or other Person whatsoever, that directly or indirectly shall molest or hinder any such Commissioners (or others employed by them) in the Execution of the Power or Trust reposed in them by this or any former Act, by shutting up or stopping any Passage made or opened by them or by their Order for any the Purposes aforesaid, shall for each Offence forfeit and pay as a Fine to His Majesty for the Use of this Government the Sum of twenty Pounds, to be recovered by Bill, Plaint or Information in any Court proper to try the same, after the Manner of Conviction, and by the same Rules and Methods as are provided and directed to in an Act intituled *An Act in Addition to and for rendring more effectual an Act made in the tenth Year of the Reign of King WILLIAM the Third, intituled An Act for preventing of Trespasses.*

Preamble.

And whereas it has been found necessary in order to remove the natural Obstructions in Rivers and Streams, that the Course of the Water there be stoppt (by Dams erected for that Purpose) during the Time that Workmen are employed in removing them;

Commission-
ers impow-
ered to erect
Dams, provid-
ed, &c.

Be it therefore enacted, That it shall be lawful for Commissioners of Sewers when and so often as they shall find it needful to erect or cause to be erected any Dam or Dams upon or a-cross any River or Stream wherein such Obstructions are found, for the greater Ease and Dispatch in removing them; Provided such Dam or Dams be taken down as soon as conveniently may be after the Work is finished, and meet Recompence be made (in Manner as aforesaid) for any Damages that may thereby accrue to the Owner or Owners of the Land against or over which such Dam or Dams shall abutt or be erected, or which by Occasion of such Dam may happen for a Time to be overflowed with Water. *Saving always,* the Liberty of Appeal from any Orders or Determinations of the said Commissioners to the Governor and Council, as by the afore-mentioned Act in that Behalf is provided.

Saving.

Limitation.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Reviv'd and Continued 'till July 1. 1770.

[The foregoing Act was Publish'd March 27. 1746.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-eighth Day of *May* 1746.

CHAP. I.

An Act relating to Views by a Jury in Civil Actions.

BE it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act, in all Actions brought in any of his Majesty's Courts of Record within this Province, where it shall appear to the Court in which such Actions are depending, that it will be proper and necessary that the Jurors who are to try the Issues in any such Actions, should have the View of the Messuages, Lands or Place in Question, in order to their better understanding the Evidence that will be given upon the Trial of such Issues; in every such Case the respective Courts in which such Actions shall be depending, may order the Jury to the Place in Question, who then and there shall have the Matters in Question shewn them by two Persons to be appointed by the Court, and the special Cost of all such Views as allowed by the Court shall before the Trial be paid by the Party who moved for the View (the adverse Party not consenting thereto) and shall at the Taxation of the Bill of Cost have the same allowed him upon his recovering Judgment on such Trial; and upon all Views with the Consent of Parties ordered by the Court, the Costs thereof as allowed by the Court shall, before Trial, be equally paid by the said Parties, and in the Taxation of the Bill of Costs, the Party recovering Judgment shall have the Sum by him paid allowed to him: Any Law, Usage or Custom to the contrary notwithstanding.

Courts may allow Jurors to have the View of Messuages, Lands &c. in Question & to be tried.

By whom Cost of View is to be paid.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and to the End of the Session of the General Court next after, and no longer.

Reviv'd and Continu'd 'till July 1. 1770.

[The foregoing Act was Published July 1. 1746.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-eighth Day of *May* 1746, and continued by Adjournments to Wednesday the twenty-seventh Day of *August* following.

C H A P. II.

An Act to prevent the firing of Guns charged with Shot or Ball in the Town of *Boston*.

Preamble.

WHEREAS by the indiscreet firing of Guns laden with Shot and Ball within the Town and Harbour of *Boston*, the Lives and Limbs of many Persons have been lost, and others have been in great Danger, as well as other Damage has been sustained:

For the Prevention thereof for the future;

Penalty for firing off loaded Cannon.

Be it enacted by the Governor, Council and House of Representatives, That no Person or Persons from and after the Publication of this Act shall presume to discharge or fire off any Cannon laden with Shot from any Wharf or Vessel in that Part of the Harbour of said Town which is above the Castle, on Pain of forfeiting the Sum of *fifteen Pounds* for each Gun so fired or discharged; one Moiety of said Penalty to be to and for the Use of the Poor of said Town of *Boston*, and the other Moiety to him or them who shall inform, complain and sue for the same, to be recovered by Action, Bill, Complaint, or Information, before any of his Majesty's Courts of Record within the County of *Suffolk*, and upon Refusal thereof such Person shall suffer three Months Imprisonment without Bail or Mainprize.

Penalty for discharging Guns or Pistols laden with Shot or Ball.

And be it further enacted, That no Person shall from and after the Publication of this Act discharge any Gun or Pistol charged with Shot or Ball in the Town of *Boston* (the Islands thereto belonging excepted) or in any Part of the Harbour between the Castle and said Town, on Pain of forfeiting *forty Shillings* for each Gun or Pistol so fired or discharged, to be recovered before one or more of his Majesty's Justices of the Peace for the County of *Suffolk*, and disposed of in Manner as aforesaid, or shall suffer ten Days Imprisonment. And for the more effectual Conviction of any Person or Persons so offending, it shall be lawful for any Person to seize and take into

To prevent Profane Swearing.

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into Custody any Gun so fired off, and deliver the same to one of the next Justices of the Peace in said Town of *Boston*, in order to its being produced at Time of Trial.

Provided nevertheless, That this Law shall not be so construed or understood as to prevent Soldiers in their common training Days with the Leave and by Order of the Commission Officers of the Company to which they belong, or other Persons at other Times with the Leave of one or more of the Field Officers of the Regiment in *Boston*, from firing at a Mark or Target for the Exercise of their Skill and Judgment, provided it be done at the lower End of the Common; nor from firing at a Mark from the several Batteries in the Town of *Boston*, with the Leave of the Captain General, and no where else. Proviso.

This Law to continue and be in Force for the Space of three Years, and no longer. Limitation.

Reviv'd and Continu'd to July 1. 1770.

[*The foregoing Act was Published September 13. 1746.*]

An Act

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-eighth Day of *May* 1746, and continued by Adjournments to Wednesday the twenty-fourth Day of *December* following.

C H A P III.

An Act more effectually to prevent profane Cursing and Swearing.

FORASMUCH as the horrible, impious and execrable Vices of profane Cursing and Swearing (so highly displeasing to Almighty GOD and offensive to every Christian) are become so frequent and notorious, that unless speedily and effectually punished, they may justly provoke the divine Vengeance to increase the many Calamities this People now labour under; And whereas the Laws now in Being for punishing those Crimes have not answered the good Intentions for which they were designed: Preamble.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the twentieth Day of *February* Instant, if any

Penalty for
Profane Cur-
sing or Swear-
ing.

any Person or Persons that have arrived at Discretion, in the Judgment of the Justice before whom the Conviction may be, shall profanely Curse or Swear in the Hearing of any Justice of the Peace, or being charged therewith shall confess such Offence, or be otherwise convicted thereof on the Oath of any Sheriff, Deputy-Sheriff, Coroner, Constable, Grand-Juror or Tything-Man, where such Evidence shall be satisfactory to the Justice that shall take Cognizance of the Offence, or on the Oath of any one or more Witnesses or Witnesses where the Evidence shall be satisfactory as aforesaid, every Person so offending shall forfeit and pay (for the Use of the Poor of the Town where such Offence is committed) a Sum not exceeding *eight Shillings* nor less than *four*, according to the Aggravations of the Offence and the Quality and Circumstances of the Offender in the Judgment of the Justice or Court before whom the Conviction is; And in Case the same Person or Persons shall after Conviction offend a second Time, such Offender or Offenders shall forfeit and pay double, and if a third Time treble the Sum forfeited on the first Conviction, and the like Sum on every Conviction afterwards: And if on any Trial and Conviction Proof shall be made that more than one profane Oath or Curse were uttered by the same Person at the same Time, and in the Presence or Hearing of the same Witness or Witnesses, the Person so offending, for every profane Oath or Curse so uttered, after the first, shall forfeit and pay a Sum not under *one Shilling*, nor exceeding *two Shillings*: And in Case any Person convicted of profane Cursing or Swearing shall not immediately pay the Sum or Sums so forfeited, he shall be committed to the common Goal or House of Correction, there to remain not exceeding ten Days nor less than five Days.

Proviso.

Provided always, And it is hereby enacted, That in Case any common Soldier in his Majesty's Service, or any common Sailor or Seaman belonging to any Ship or Vessel shall be convicted of profane Cursing or Swearing as aforesaid, and shall not immediately pay down the Penalty by him forfeited, such common Soldier or Seaman, instead of being committed as aforesaid, shall by the said Justice of the Peace be ordered to be publicly set in the Stocks or Cage for the first Offence not exceeding three Hours, and for the second or any after Offence shall be publicly whip'd not exceeding twenty nor less than ten Stripes: And if any Indian, Negro or Molatto Slave, shall be convicted of profane Swearing and Cursing, and the Fine is not immediately paid, such Slave shall be publicly whip'd by Order of such Justice not exceeding twenty Stripes nor less than ten.

Sheriff &c. to
apprehend
and secure
Offenders a-
gainst this Act

And be it further enacted, That if any Person or Persons shall profanely Swear or Curse in the Hearing of any Sheriff, Deputy-Sheriff or Constable, they and each of them are hereby authorized and required to apprehend and secure such Offender or Offenders being unknown to them, and to require suitable Aid therein, and him or them forthwith to carry before some Justice of the Peace for the same County, that so such Offender or Offenders may be convicted and punished for the said Offence: And in Case any Person profanely Swearing or Cursing in the Hearing of any Sheriff, Deputy-Sheriff, Coroner, Constable, Grand-Juror or Tything-Man, shall be known to any or either of them, such Sheriff, Under-Sheriff, Coroner, Constable, Grand-Juror or Tything-Man, shall and is hereby required forthwith to give Information thereof to some Justice of the Peace of the same County, in order that the Offender or Offenders may be convicted and punished for the same in Manner and Form as in and by this Act is directed.

And

To prevent Profane Swearing.

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And be it further enacted, That every Justice of the Peace before whom any Person or Persons shall be convicted of profane Cursing or Swearing, shall cause the Conviction to be drawn up in the Form following :

Suffolk, ff. Be it Remembred, *That on the* Day of *in the* Year of his Majesty's Reign, A. B. was convicted before me one of his Majesty's Justices of the Peace for the County of *of* swearing one [or more] profane Oath [or Oaths] or of uttering one [or more] profane Curse or Curses [as the Case shall be] Given under my Hand and Seal the Day and Year aforesaid. Form of Conviction.

Which said Form and Conviction shall be deemed and taken to be final to all Intents and Purposes (saving as herein is after expressed ;) And the said Justice before whom such Conviction shall be, shall cause the same to be fairly wrote over, and returned to the then next Court of General Sessions of the Peace for the County where the Offence is committed, there to be read in open Court, and to be filed by the Clerk of the Peace, and remain and be kept amongst the Records of said Court.

Saving always, *And it is hereby provided and enacted,* That when any Person shall be convicted before a Justice of the Peace of profane Cursing or Swearing, if the Defendant shall confess the Words alledged to have been uttered, and shall plead specially that the Words spoken do not amount to or import a profane Oath or Curse within the Meaning and Intention of this Act, in such Case it shall and may be lawful for such Defendant to appeal from the Sentence of the Justice before whom he was convicted, to the Justices of the same County in their next General Sessions of the Peace, who shall hear and finally determine the same, the Appellant claiming his Appeal at the Time of declaring the said Sentence, and recognizing with Sureties in a reasonable Sum not exceeding five Pounds to prosecute his Appeal with Effect, and to perform the Order of the said Court thereon. Saving:

And be it further enacted, That if any Justice of the Peace (upon due Information and Complaint made against any Person or Persons for profane Cursing or Swearing) shall wittingly and wilfully omit the Performance of his Duty in the Execution of this Act, he shall forfeit and pay the Sum of five Pounds, one Moiety thereof to the Informer that shall sue for the same, and the other Moiety to the Use of the Poor of the Town where he resides, to be recovered by Action or Information in any of his Majesty's Courts of Record within the respective Counties where such Offence is committed ; And no Essoin, Protection or Wager of Law shall be allowed, or more than one Impar lance. Penalty for Justices neglecting their Duty.

And be it further enacted, That if any Constable, Grand-Juror, Tything-Man, or other Officer enjoined by this Act to inform against the Violators of it, shall wittingly and willingly omit the Performance of his Duty in the Execution of this Act, and be thereof duly convicted before any Justice of the Peace for the County where such Offence is committed, he shall forfeit and pay the Sum of forty Shillings, to be levied and recovered by Distress and Sale of the Offender's Goods and Chattels, by Virtue of a Warrant under the Hand and Seal of such Justice, to be disposed of, one Moiety thereof to the Informer, the other Moiety to the Use of the Poor of the Town where the Offence is committed : And in Case such Offender shall

[N]

not

not have sufficient Goods and Chattels whereon to levy the said Penalty, it shall and may be lawful for such Justice of the Peace to commit the Offender to Goal for the Space of six Days, there to remain without Bail or Mainprize.

Penalty for
such who
shall neglect
to give Aid
&c.

And be it further enacted, That if any Person being required to give Aid to any Sheriff, Deputy-Sheriff or Constable, as by this Act is provided, shall neglect or refuse the same, and be thereof convicted before any Justice of the Peace, by the Oath of any such Sheriff, Deputy-Sheriff or Constable, or other legal Witness or Witnesses to the Satisfaction of such Justice, such Person so refusing shall forfeit and pay the Sum of *forty Shillings*, the one Half to the Informer, and the other Half to the Poor of the Town where the Offence is committed: And every Person giving Aid as before is provided in this Act shall receive the same Allowance therefor as is by Law made to Witnesses in civil Causes.

Proviso.

Provided always, And it is hereby enacted, That no Person shall be prosecuted or troubled for any Offence against this Law, unless the same be proved or prosecuted within twenty Days next after the Offence is committed.

This Act re-
commended
to be read, &c.

And that no Person may plead Ignorance of this Law, but that it may be generally known, Be it further enacted, That immediately after the Publication of it from the Court-House in *Boston*, a printed Copy of this Act shall be transmitted to every Minister within the Government, to whom it is hereby recommended to read or cause the same to be publicly read before their several Congregations immediately on his receiving the same; and also on the Lord's Day next succeeding the Choice of Town-Officers yearly during the Continuance of this Act.

This Act to
be read at
the opening
of Courts.

And be it further enacted, That the Justices of the Court of Assize and General Goal Delivery, and the Justices of the Peace for the several Counties within this Province at their General Sessions shall cause this Act to be publicly read at the opening of their respective Courts from Time to Time.

Limitation.

This Act to continue and be in Force for the Term of three Years from the Publication thereof, and to the End of the then next Session of the General Court, and no longer.

Reviv'd and Continu'd to July 1. 1770.

[*The foregoing Act was Published February 13. 1746.*]

Regulation of Swine.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and Held at *Boston* upon Wednesday the twenty-eighth Day of *May* 1746, and continued by Adjournments to Thursday the sixteenth Day of *April* following.

C H A P IV.

An Act for the better Regulating Swine.

BE it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act, no Swine shall be suffered to go at Large, or be out of the Inclosure of the Owner thereof, under the Penalty of *one Shilling* for each Swine for the first Offence, and *two Shillings* for each Offence after the first, together with Costs of Prosecution, to be forfeited and paid by the Owner of such Swine found going at Large as aforesaid; which Fine or Forfeiture, together with the Charge of Prosecution, may be recovered by the proper Hoggreeves, or any other Person, by Bill, Plaint or Information, before any one of his Majesty's Justices of the Peace in such County where such Forfeiture shall arise, or by impounding such Swine, and proceeding with them as the Law hath directed in Case of impounding.

Swine not to go at large on Penalty.

And whereas it may so happen that the Owner of such Swine as go at large may not be known; In such Case the Party that finds any Swine going at Large shall have Power to impound them; and if no Owner appear within forty-eight Hours, or appearing, do neglect or refuse to pay the Forfeiture, together with the Charges, that then the Party impounding them shall cause them to be cried, or posted up in the Town where they are impounded, and in the Towns next adjoining; and shall likewise cause the Marks of the Swine to be entred with the Town-Clerk, and shall relieve such Swine with necessary Food during the Time they are in Pound; and if no Owner appear, and pay the said Penalty and Charges within ten Days after such Impounding, then such Swine shall be sold at an Outcry to the highest Bidder, by two suitable Persons to be appointed and sworn to the faithful Discharge of their Trust by the next Justice of the Peace, or Town-Clerk where no Justice dwells, which Sellers shall give public Notice of the Time and Place of such Sale twenty-four Hours before Hand, and out of the Proceeds of such Sale shall pay unto the Party the said Forfeiture and Costs, as by Bill allowed by said Justice or Town-Clerk, and the Surplusage thereof he shall deliver

Swine to be impounded and sold if no Owner appear.

Regulation of Swine.

deliver to the Treasurer of ſuch Town, to be kept for the unknown Owner; and if no Owner do appear within the Space of one Year, then the Town Treasurer ſhall deliver the one Half of the Surpluſage to the Proſecutor, and the other Half to the Overſeers of the Poor for the Uſe of the Poor of ſuch Town.

Proviſo.

Provided nevertheless, That it ſhall be in the Power of any Town, in a Town-Meeting for that Purpoſe appointed, from Time to Time by a Vote, to give Liberty for Swine going at Large within the Bounds of ſuch Town; and in ſuch Caſe it ſhall be lawful for any and every Perſon and Perſons to ſuffer his or their Swine to go at Large; any Thing in this Act contained to the contrary notwithstanding.

Swine going
at large to be
yoked.

Provided always, That every Perſon ſuffering his Swine to go at Large by Virtue of ſuch Town Vote, ſhall before he ſuffer his Swine to go at Large as aforeſaid, cauſe each of them to be well and ſufficiently ringed in the Noſe and yoked, and conſtantly kept ſo ringed and yoked; otherwiſe he ſhall be liable to and ſhall pay the Forfeiture and Coſt, as is by this Act before mentioned and provided; ſaving that they may go unyoked, from the laſt Day of October to the firſt Day of April.

Sufficient
Yoke.

And to the Intent all Perſons may know what a ſufficient Yoking doth mean; It is hereby declared, That no Yoke ſhall be accounted ſufficient which is not the full Depth of the Swine's Neck, above the Neck, and Half ſo much below the Neck, and the Soal or Bottom of the Yoke three Times as long as the Breadth or Thickneſs of the Swine's Neck.

Hogreeves to
be annually
choſen.

And for the rendring this Act more effectual, Be it further enacted, That every Town within the Province at their annual Meeting in March for the Choice of Town Officers, ſhall chuſe two or more Hogreeves (but not the ſame Perſons more than once in four Years) and in Caſe any Town ſhall at any Time hereafter neglect to chuſe Hogreeves at ſuch Meeting, that in every ſuch Caſe the Select-Men of the Town are impowered and required to appoint Hogreeves, until a ſuitable Number do accept and are ſworn; whoſe Duty it ſhall be upon Complaints to them or either of them made, to take due Care that this Act be duly obſerved, and to proſecute the Breakers thereof; which Hogreeves ſhall be ſworn to the faithful and impartial Diſcharge of their Office; and if any Perſon ſo choſen or appointed ſhall reſuſe or neglect forthwith to be ſworn as aforeſaid, or neglect his Duty in ſaid Office, he ſhall forfeit and pay *twenty Shillings* to the Uſe of the Poor of ſuch Town, and upon his Reſuſal another ſhall be forthwith appointed in his Room by the Select-Men, to be under the like Penalty, and ſo till others will accept the ſaid Office, which Penalty ſhall be recovered by a Proſecution before one of his Maſteſty's Juſtices of the Peace in the County where ſuch Perſon dwells: And if upon Neglect of any Town to chuſe (according as by this Act they are required) the Select-Men of ſuch Town ſhall fail of appointing Hogreeves as they are by this Act directed, they ſhall forfeit and pay the Sum of *twenty Pounds* for ſuch Neglect, the one Half to His Maſteſty for and towards the Support of the Government, the other Half to him or them that ſhall proſecute for ſuch Neglect in any of his Maſteſty's Courts of Record within this Province; and if it ſhall appear that any of the Select-Men were ready and willing to do their Duty required by this Act, the Penalty or Forfeiture ſhall be laid on thoſe only who ſhall be negligent of their Duty by this Act required.

Penalty for
Neglect or
Reſuſal.

Provided

Provided, That this Act continue and be in Force for the Space of ten Years from the Publication thereof, and to the End of the then next Limitation. Sitting of the General Court, and no longer.

Reviv'd and Continu'd to July 1. 1770.

CHAP. V.

An Act to prevent Damage being done unto *Noffett-Meadow*, by Cattle and Horse-Kind feeding on the Beach adjoining thereto.

WHEREAS many Persons frequently drive Numbers of Neat Cattle and Horse-Kind to feed upon the Beach called *Noffett-Beach* adjoining to *Noffett-Meadow* in *Eastham*, whereby the Ground is much broken and the Sand blown away, so that the said Beach is in great Danger of being totally broke away, and by that Means the Meadow adjoining will be greatly damnified, if not wholly lost: Preamble.

Be it therefore enacted by the Governor, Council and House of Representatives, That the Proprietors of the Meadow and Beach called *Noffett-Beach* and *Meadow* are hereby impowred at their own Cost and Charge according to each ones Interest, to erect and maintain a Fence, such a one as they shall agree upon, from the enclosed Land of *Joseph Mayo*, to the southerly End of the Land called the *Table-Land* at the Sea-Side, for the Preservation of said Beach and Meadow. Proprietors impowred to erect and maintain a Fence.

And it is further enacted, That from and after the Publication of this Act, no Person or Persons shall presume to turn or drive any Neat Cattle or Horse-Kind, upon said Meadow or Beach between the first of *March* and the last of *November* annually, upon the Penalty of ten Shillings a Head for all Neat Cattle and Horse-Kind that shall be turned or found feeding on said Beach and Meadow between the said first of *March*, and last Day of *November* aforesaid, which Penalty shall be recovered by the Select-Men or Treasurer of the said Town of *Eastham*, or any other Person that shall inform and sue for the same, the one Half of the said Forfeiture to him or them who shall inform and sue for the same, the other Half to be to and for the Use of the Poor of said Town. Penalty for turning or driving Cattle to feed on Noffett-Meadows, &c.

And be it further enacted, That if any Neat Cattle or Horse-Kind shall at any Time hereafter be found feeding on the said Beach or Meadow between the first of *March* and last of *November* as aforesaid, that it shall and may be lawful for any Person to impound the same, and to proceed in every other Respect agreeable to an Act made in the sixteenth Year of his present Majesty's Reign, Intituled, *An Act to prevent Damage being done unto Billingsgate-Bay in the Town of Eastham by Cattle and Horse-Kind and Sheep feeding on the Beach and Islands adjoining thereto*; and also Cattle found feeding contrary to this Act to be impounded, &c.

said Town to proceed in the Method mentioned in the aforesaid Act in their Choice of Officers, to look after said *Noffett-Meadow* and *Beach*.

Limitation.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Reviv'd and Continu'd to July 1. 1767.

CHAP. VI.

An Act to prevent the Destruction of the Meadow called *Sandy-Neck Meadow* in *Barnstable*, and for the better Preservation of the Harbour there.

Preamble.

WHEREAS there is a certain parcel of Salt Meadow called *Sandy-Neck Meadow* in the Township of *Barnstable*, on which many of the Inhabitants of that and other Towns, greatly depend for their Hay, and the said Meadow lies adjoining to a *Sandy Beach* near six Miles in Length, on which no Fence can be made to stand; and by Reason of Neat Cattle and Horses being turned thereon to feed, the Beach Grass is destroyed, and the said Beach trod loose, by Reason whereof in high Winds and Storms the Sand blows upon said Meadow, and into said Harbour, and the whole of said Meadows are in great Danger of being covered with Sand, and also said Harbour is in great Danger of being spoiled by the Sand's blowing therein, if not timely prevented:

No Person to turn or drive Cattle, &c. on *Sandy-Neck* on Penalty.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act no Person or Persons shall presume to turn or drive any Neat Cattle or Horse-Kind, to or upon said *Sandy-Neck*, any where to the Eastward of *Sandwich Line*, to feed thereon, upon the Penalty of ten Shillings a Head, for all Neat Cattle and Horse-Kind, that shall be turned or found feeding on said Neck or Meadow adjoining, which Penalty shall be recovered by the Select-Men or Treasurer of said Town of *Barnstable*, or any other Person that shall inform and sue for the same, the one Half of the said Forfeiture to him or them who shall inform and sue for the same, the other Half to be to and for the Use of the Poor of the said Town.

Cattle, &c. found feeding contrary to this Act to be impounded, &c.

And be it further enacted, That if any Neat Cattle or Horse-Kind, shall at any Time hereafter be found feeding on the said *Sandy-Neck*, and Meadows adjoining East of *Sandwich Line*, as aforesaid; that it shall and may be lawful for any Person to impound the same, immediately giving Notice to the Owners if known, otherwise to give publick Notice thereof in the said Town of *Barnstable*, and the two next adjoining Towns, and the Impounder shall relieve the said Creatures, with suitable Meat and Water while impounded, and if the Owner thereof appear he shall pay the Sum of two Shillings and six Pence to the Impounder, for each Neat Beast and Horse-Kind, and the reasonable Cost of relieving them, besides the Pound Keeper's Fees: And if no Owner appear within the space of six Days to redeem the said Cattle or Horse-Kind so impounded, and to pay the Damages and Costs occasioned

occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle or Horse-Kind, shall cause the same to be sold at publick Vendue to pay the Costs and Charges arising about the same; publick Notice of the Time and Place of such Sale to be given in said Town of *Barnstable*, and in the Town of *Sandwich*, forty-eight Hours before Hand, and the Over-plus, (if any there be) arising by such Sale, to be returned to the Owner of such Cattle or Horse-Kind at any Time within twelve Months next after, upon his demanding the same; but if no Owner appear within said twelve Months, then the Over-plus shall be one Half to the Party impounding, and the other Half to the Use of the Poor of the said Town of *Barnstable*.

And be it further enacted, That the said Town of *Barnstable* at their Meeting in *March* annually for the Choice of Town-Officers, be authorized and empowered to chuse one or more meet Person or Persons, whose Duty it shall be to see that this Act be observed, and prosecute the Breakers thereof, who shall be sworn to the faithful Discharge of their Office; and in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay ten Shillings to the Poor of said Town of *Barnstable*; and said Town to proceed to chuse others in their Room; and the said Town of *Barnstable* at a Town-Meeting warned for that Purpose may at any Time before *March* next, chuse such Officers, who shall continue to their annual Meeting in *March* next.

Officers to be annually chosen.

Penalty for refusing.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Limitation]

Reviv'd and Continu'd 'till January 30. 1771.

[The three foregoing Acts were Published April 27. 1747.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-seventh Day of *May* 1747.

CHAP. I.

An Act to prevent the Destruction of Wild Fowl.

WHEREAS the Water Fowl of divers Kinds, which were wont in former Years, in great Numbers, to frequent the maritime Towns of this Province, were of great Service and Benefit to the Inhabitants both for Meat and Feathers, but are now in a great Measure affrighted and driven away by many Persons who have made Use of Floats or

Preamble.

or Rafts therein to go off as well by Night as by Day, to shoot them at a Distance from the Shoar upon the Flats and feeding Grounds, and from the Land by Night, which Practices if continued, are likely to have the ill Effect to cause the Fowl wholly to desert and disuse the said Towns :

For Prevention whereof;

Penalty for
using Floats
trim'd or
dress'd.

Be it enacted by the Governor, Council and House of Representatives, That if any Person or Persons shall at any Time after one Month from the Publication of this Act, make Use of any Float, Raft, or Canoe, any ways trim'd or dress'd up, wherewith (by Night or by Day) to approach and shoot at any Water Fowl in any Part of this Province, or shoot at any such Fowl by Night from the Land, or from out of any Boat, Canoe, Float or other Vessel, he or they so offending shall each of them forfeit and pay for the first Offence the Sum of twenty Shillings to the Informer, to be recovered before one of his Majesty's Justices of the Peace for the County where the Fact shall be committed, and forty five Shillings for every Offence afterwards, to be recovered before the Justices of the Court of General Sessions of the Peace, by Bill Plaint or Information, the one Half to the Informer, and the other Half for the Use of the Poor of the Town where the Fact shall be committed.

Limitation.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Reviv'd and Continu'd till January 30. 1771.

CHAP. II.

An Act to prevent Deceit in the Gage of Cask.

Preamble.

WHEREAS his Majesty's good Subjects within this Province, are greatly damaged in the Make and Measure of their Cask, and particularly those of Rum and Molasses, inasmuch as the Hogsheads and other Cask, which ought to answer the Gage by the Rod, have been proved, and upon Trial in their drawing off, there have been wanting seven or eight Gallons, and sometimes more in a Hogshead; which Persons are obliged to pay for more than they really receive :

For Remedy whereof;

Rum and
Molasses to
be mathema-
tically gaged.

Be it enacted by the Governor, Council and House of Representatives, That all Rum and Molasses in Casks of all Sorts from a Barrel and upwards, that shall be exposed to Sale, be mathematically gaged by Gunter-Scale, and the Quantity said Cask can contain being full, to be set and marked on one Head by the Gager with a marking Iron; and the said Gager shall demand and receive of the Owner or Owners of such Rum or Molasses three Pence for every Cask by him gaged as aforesaid and no more.

And

And be it further enacted, That the Justices of the Peace at their first General Sessions in each respective County of this Province, from the Publication of this Act, and afterwards yearly, shall in every Town where there shall be Occasion, chuse and appoint a fit Person or Persons to be a Gager or Gagers, who shall be Sworn to the due Execution of their Office by one of his Majesty's Justices of the Peace within the same County in the Words following, viz.

Justices in their Sessions yearly to appoint a Gager or Gagers.

You, A. B. being appointed a Gager according to Law, do Swear, that you will from Time to Time diligently and faithfully discharge and execute the Office of a Gager, within the Limits whereto you are appointed for the ensuing Year, and until another be chosen and sworn in your Place, and that by, and in all the Particulars mentioned in the Law, whereto your Office hath Relation; and you will do therein impartially without Fear or Favour.

Gagers Oath.

So help you GOD.

And every Person or Persons who shall presume to sell any Rum or Molasses, without being gaged as this Act directs, and having the Gager's Mark upon it, shall forfeit and pay for every Cask, by him or them sold contrary to the true Intent and Meaning of this Act, the Sum of five Pounds, one Half to the Poor of the Town where the Offence is committed, and the other Half to the Informer, who shall inform and sue for the same, in any of his Majesty's Courts of Record within this Province.

Penalty for selling without the Gager's Mark.

This Act to continue and be in Force for the Space of ten Years from the Publication thereof, and no longer.

Limitation.

Revis'd and Continu'd 'till July 1. 1770.

[The two foregoing Acts were Published July 2d. 1747.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-seventh Day of *May* 1747, and continued by Adjournments to Wednesday the twelfth Day of *August* following.

C H A P. III.

An Act to enable the Proprietors of *Suncook*, to raise Money for the Support of their present Minister.

Preamble.

WHEREAS the Proprietors of *Suncook* are under a special Covenant to support the Rev. Mr. Whittemore the present Pastor of the Church there, but by Reason of the late Order of his Majesty in Council, respecting the Northern Boundary of this Province, a Difficulty has arisen in assessing and collecting Money for the Purposes aforesaid, whereby considerable Inconveniencies have arisen;

For the Removal of which the Aid of this Court is necessary :

Suncook Proprietors im-
powred to
assemble and
meet to chuse
Officers, &c.

Be it therefore enacted by the Governor, Council and House of Representatives, That it shall be in the Power of the said Proprietors of *Suncook*, to assemble and meet at the Dwelling-House of *Henry Abbot* of *Andover*, in the County of *Essex* Innholder, on the third Tuesday of *October* next, at two o'Clock in the Afternoon, to chuse a Moderator and Clerk, and raise Money on said Proprietors necessary to enable them to fulfil the said Covenant, and to defrey the Charge of the Law Suit that has already been brought by the said Minister against the said Proprietors, and the necessary Expence of assessing and collecting the same; also to chuse Assessors, Collectors, and a Treasurer, for assessing, collecting and receiving the Sum and Sums so raised, and to chuse a Committee to call the said Proprietors together in *March* yearly, and at such other Times as shall be found necessary for raising Money to enable them from Time to Time to fulfill the Covenant aforesaid, and to defrey other necessary ministerial Charges for the future, and to chuse other Officers as Occasion may require, the said Officers to observe the same Rules in assessing and collecting the respective Sums that may be granted, to be raised as aforesaid, as the Parish Assessors and Collectors are by Law obliged to observe, and to be vested with the same Power.

And

And to the Intent the said Meeting in October next may be seasonably known;

Ordered, That Benjamin Johnson of Woburn, be directed to give Notice thereof in the *Boston Weekly Gazette*, on each of the four Weeks that shall next succeed the Publication of this Act, setting forth the Time, Place and Business of their said Meeting.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Limitation.

Reviv'd and Continu'd to July 1. 1767.

[The foregoing Act was Publish'd September 14. 1747.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-fifth Day of *May* 1748, and continued by Prorogations to Wednesday the twenty-sixth Day of *October* following, and then met.

CHAP. I.

An Act for the Eafe of Prisoners for Debt.

FORASMUCH as in divers Counties within this Province the Prisons are so small, that when there are any Numbers of Prisoners, there are not Rooms or Apartments sufficient for the receiving and securing of them, without lodging Felons and other Criminals and Prisoners for Debt together in one and the same Room; which is very inconvenient:

Preamble.

Be it therefore enacted by the Governor, Council and House of Representatives, That in the several Counties within this Province, the Prisons that are or shall be erected within the said Counties, shall be made so large as that there may be sufficient and convenient Apartments for the receiving and lodging of Prisoners for Debt, seperate and distinct from Felons and other Criminals.

Prisons to be made with convenient Apartments.

And

Debtors to
have seperate
Apartments.

And be it further enacted, That any Person imprisoned for Debt either upon mean Procefs or Execution, shall be permitted and allowed to have a Chamber and Lodging in any of the Houses or Apartments belonging to such Prisons, and Liberty of the Yard within the same in the Day time, but not to pass without the Limits of the Prison, upon reasonable Payment to be made for Chamber Room, not exceeding *one Shilling and six Pence* per Week, such Prisoner giving Bond to the Sheriff with two sufficient Sureties being Freeholders, bound jointly and severally in double the Sum for which he is imprisoned, with the Condition under-written in Form following, viz.

Form of the
Bond to be
given.

" That if the above-bounden *A. B.* now Prisoner in his Majesty's Goal
" in *B.* within the County of *S.* at the Suit of *C. D.* do and shall
" from henceforth continue and be a true Prisoner in the Custody,
" Guard and safe keeping of *J. S.* Keeper of the same Prison, and
" in the Custody, Guard and safe keeping of his Deputy, Officers and
" Servants, or some one of them, within the Limits of the said Prison
" until he shall be lawfully discharged, without committing any Man-
" ner of Escape or Escapes during the Time of his Restraint, then this
" Obligation to be void, or else to abide in full Force and Virtue."

Forfeitures
for the Cre-
ditors.

And in Case of any Escape the whole Penalty of such Bond shall be to and for the Use of the Creditor, and such Bond shall be transferred and assign'd over to the Creditor by the Sheriff, with full Power to enable him to put the same in Suit; and the Creditor shall recover the whole Sum therein expressed, and the Court shall make up Judgment accordingly; and the Sheriff delivering up such Bond to the Creditor so assigned as aforesaid, shall not be liable to any Action of Escape for any Prisoner enlarged upon Security given in Manner as aforesaid.

Proviso.

Provided always, That the Sureties be approved as sufficient by the Justices of that Court before whom the Cause upon such Commitment is to be tried, or from whence Execution issued, or any two of them being together, or by two Justices of the County *Quorum Unus* as aforesaid; where the Debtor is imprisoned, and no other Security to be accepted.

Limitation.

This Act to continue and be in Force for the Space of ten Years from the Publication thereof, and from thence to the End of the Session of the General Court then next after, and no longer,

Reviv'd and Continu'd 'till July 1. 1770.

[*The foregoing Act was Publish'd November 28. 1748.*]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-fifth Day of *May* 1748, and continued by Prorogation and Adjournments to Wednesday the twenty-first Day of *December* following, and then met.

CHAP. II.

An Act for the more easy Partition of Lands.

WHEREAS the Partition of Lands is often delayed by Reason, that the Parties concerned therein are very numerous, and live remote from each other, and sometimes in Parts beyond the Seas, and are some of them unknown, to the hindrance and retarding of the Improvement and Settlement of Lands in this Province: Preamble.

For Remedy whereof;

Be it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act any Person or Persons interested with any others in any Lot or Grant of Land, making Application (either by themselves or their lawful Agents, Attorneys or Guardians) to the Superiour Court of Judicature, the said Court (whether then holden in the County where such Lands lie, or in any other County within this Province) is hereby authorized and impowered to cause Partition to be made of such Lands, with the Buildings thereon (if any such there be) and the Share or Shares of the Party or Parties applying for the same to be set off and divided from the rest; such Partition to be made by five Freeholders under Oath (or the major Part of them) to be appointed by said Court, and a Return of such Partition to be made into the Clerk's Office of said Court, and the Partition or Division so made being accepted by the said Court, and there recorded, and also recorded in the Registry of Deeds in the County where such Estate lies, shall be valid and effectual to all Intents and Purposes. Superiour Court upon Application to make Partition of Lands

Provided nevertheless, That before such Partition be made, where any Infants or Persons under Age, or *non compos mentis* are interested, Guardians shall be appointed for all such Persons according to Law, if they live within this Province: And if any Person or Persons interested in any such Estate happen (at the Time when such Application shall be made) to have been beyond Sea or out of this Province for the Space of one Year, Exception where any Persons are non compos or out of the Province.

[Q]

and

and not expected to return into the same within the Space of six Months more, and have no sufficient Attorney within the same, that then and in such Cases the Justices of the said Court shall appoint some discreet and indifferent Person or Persons as Agent or Agents for such absent Party or Parties, and on his, her or their Behalf to be advising in making such Partition, and due Notice to all concerned (that are known and within this Province) shall be given before such Partition be made, that so they may be present (if they see meet) at the Time of making the same.

Proviso.

Provided also, That no Partition be made where any Partner shall be beyond Sea, and shall not have been absent twelve Months, or shall be expected to return within six Months; any Thing in this Act to the contrary notwithstanding.

Case where
the Partition
may be made
de novo.

Provided also, That if any Partner should have a larger Share set off than is such Partner's true and real Interest, or if any Share set off should be more than equal in Value to the Proportion it was set off for, then and in every such Case, upon Complaint (to the Court which caused said Partition to be made) within three Years of the making thereof, by any aggrieved Partner or Partners, who at the Time of making such Partition were out of the Province, and not notified thereof as aforesaid in Time for them to be present at the same, the said Court shall cause a Partition thereof to be made *de novo*.

And in such new Partition so much and no more shall be taken off from any Share, as such Share shall be adjudg'd more than the Porportion of the whole it was design'd for, estimating such Lands as in their original State, or the State they were in when first divided; and in Case any Improvements shall have been made on the Part that may by such new Partition be taken off as aforesaid, the Partner who made such Improvements shall have reasonable Satisfaction made them by the Partner or Partners to whose Share the same shall be added, by the Estimation of the Freeholders employ'd in making such new Partition, or the maior Part of them.

Limitation.

This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and no longer.

Reviv'd and Contin'd to July 1. 1770.

CHAP. III.

An Act to prevent Damage being done on the Beach and Meadows in *Plymouth* adjoining to said Beach, commonly known by the Name of *Plymouth-Beach*.

Preamble.

WHEREAS Persons frequently drive Numbers of Neat Cattle Horses and Sheep, to feed upon *Plymouth-Beach* and the Meadows adjoining to said Beach, whereby the said Beach is much broken, and the Sea breaks over it, and carries the Sand into the Harbour and upon the Meadows;

Plymouth Beach.

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Meadows ; and there is great Danger if such Practices are not prevented that the Harbours in said Town will be intirely ruined, and the Meadows within said Beach utterly spoiled, to the great Damage of the Owners thereof:

Be it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act, no Person or Persons shall presume to turn or drive on any Neat Cattle, Horse-Kind or Sheep upon the Beach called Plymouth-Beach, or upon the Meadows adjoining, on the Penalty of ten Shillings a-Head for Neat Cattle or Horses, and three Shillings for each Sheep that shall be turned or found on said Beach or Meadows ; which Penalty shall be recovered by the Select-Men or Town-Treasurer of said Town of Plymouth, or any other Person that shall inform or sue for the same ; one Half of said Forfeiture to him or them that shall inform or sue for the same, the other Half to be to and for the Use of the Poor of said Town of Plymouth.

No neat Cattle Horses or Sheep to be turned on Plymouth-Beach or Meadows.

And be it further enacted, That if any Neat Cattle, Horse-Kind or Sheep, shall at any Time be found feeding on said Beach, Meadows, or Shores adjoining to said Beach, that it shall and may be lawful for any Person to impound the same, immediately giving Notice to the Owner or Owners of the same, if known, otherwise to give publick Notice thereof in said Town of Plymouth ; and the Impounder shall relieve said Creatures with suitable Meat and Water while impounded ; and if the Owner thereof appear he shall pay two Shillings and six Pence for each Neat Beast or Horse-Kind, and eight Pence for each Sheep, and the reasonable Cost of relieving them, besides the Pound Keeper's Fees : And if no Owner appear within the Space of three Days to redeem the said Cattle, Horse-Kind or Sheep so impounded, and to pay the Cost and Damage occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle, Horse-Kind or Sheep, shall cause the same to be sold at public Vendue, and pay the Cost and Charges arising about the same (publick Notice of the Time and Place of such Sale being given in the said Town of Plymouth, and the two neighbouring Towns forty eight Hours before Hand) and the Overplus (if any there be) arising by such Sale to be returned to the Owner or Owners of such Cattle, Horse-Kind or Sheep, at any Time within two Months next after such Sale, upon his demanding the same, but if no Owner appears within said two Months, then the said Overplus shall be one Half to the Person impounding, and the other Half to be returned to the Town-Treasurer of said Town of Plymouth, for the Use of the Poor of said Town.

Creatures turned on said Beach, &c. to be impounded

Owners thereof to pay a Fine and Cost of Relieving.

Creatures to be sold in Case.

Provided, That nothing in this Act shall be construed to prevent any of the Owner or Owners of said Beach or Meadows, or any improving under them, from turning on their Horses they ride, or Cattle improved in their Teams, to feed on said Beach or Meadows, while they are cutting or carting their Hay off said Beach or Meadows adjoining.

Proviso.

And be it further enacted, That the said Town of Plymouth at their Meeting in March annually for the Choice of Town Officers, be authorized and impowered to chuse one or more meet Person or Persons whose Duty it shall be to see this Act observed, and to prosecute the Breakers thereof, who shall be sworn to the faithful Discharge of their Office : And in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay the Sum of twenty Shillings for the Use of the Poor of the Town of Plymouth ; and upon

Officers to be chosen to see this Act executed.

Penalty.

To prevent Damage by Fire.

upon said Refusal said Town may from Time to Time proceed to a new Choice of such Officer or Officers: And the said Town of *Plymouth* at a Town Meeting warned for that Purpose, may at any Time chuse such Officers who shall continue 'till their annual Meeting in *March* next.

Limitation. This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and no longer.

Reviv'd and Continu'd 'till July 1. 1770.

CHAP IV.

An Act to prevent Damage by Fire in the Towns of *Boston* and *Charlestown*.

Preamble. **W**HEREAS great Damage has many Times arisen from Fires which have begun in Sail-makers and Riggers Lofts, and spread to the Buildings adjacent:

Sailmakers Lofts in *Boston* and *Charlestown* to be allow'd of by the Select-Men. Be it enacted by the Governor, Council and House of Representatives, That from and after the first Day of *September*, which shall be in the Year of our Lord One Thousand seven Hundred and forty-nine, it shall not be lawful for any Person to occupy or improve any Tenement or Building whatsoever in any Part of the Towns of *Boston* or *Charlestown* for the Business or Employment of a Sail-maker or Rigger, save only in such Parts of the Town as the Select-Men of the said Towns respectively or the major Part of them, shall determine convenient, such Determination to be certified under the Hand of the Town-Clerk.

Penalty for offending. And if any Person shall offend against this Act, he shall forfeit and pay the Sum of *twenty Pounds* for every six Months, and so in Proportion for a greater or less Time he shall so occupy or improve any Tenement or Building that shall not be licensed or allowed as aforesaid, one Half thereof to and for the Use of the Poor of the Town of *Boston* or *Charlestown* respectively, the other Half to him or them that shall inform and sue for the same, to be recovered before the Court of General Sessions of the Peace for the County where the Offence shall be committed.

Limitation. This Act to continue and be in Force until the first Day of *September* One Thousand seven Hundred and fifty two, and no longer.

Reviv'd and Continued 'till January 30. 1771.

[The three foregoing Acts were Publish'd February 2. 1748.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-fifth Day of *May* 1748, and continued by Prorogation and Adjournments to Wednesday the fifth Day of *April* following, and then met.

CHAP. V.

An Act to prevent Damage being done on the Beach in *Biddeford*, and Meadows adjoining to said Beach, commonly known by the Name of *Winter-Harbour Beach*.

WHEREAS by the frequent Numbers of neat Cattle, Horses and Sheep feeding upon said Beach and the Meadows adjoining thereto, the said Beach is much broken, and the Sea breaks over it, and carries the Sand into the Harbour and upon the Meadows; and there is great Danger, if such Practices are not prevented, that the Harbour in said Town will be intirely ruined, and the Meadows within said Beach utterly spoiled, to the great Damage of the Owners thereof:

Preamble.

Be it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act, no Person or Persons shall presume to turn or drive any Neat Cattle, Horse-Kind or Sheep upon the Beach called *Winter-Harbour Beach* in *Biddeford*, or upon the Meadows adjoining, upon the Penalty of ten Shillings a Head for neat Cattle or Horses, and three Shillings for each Sheep that shall be turned or found on said Beach or Meadows, the one Half of said Forfeiture to be to the Informer, the other Half to and for the Use of the Poor of said Town of *Biddeford*.

No neat Cattle Horses or Sheep to be turned on *Winter-Harbour Beach* or Meadows.

And be it further enacted, That if any neat Cattle, Horse-Kind or Sheep shall at any Time be found feeding on said Beach, Meadows or Shores adjoining to said Beach, it shall and may be lawful for any Person to impound them immediately, giving Notice to the Owner or Owners of the same, if known, otherwise to give publick Notice thereof in said Town of *Biddeford*; and the Impounder shall relieve said Creatures with suitable Meat and Water while impounded; and if the Owner thereof appear he shall pay two Shillings for each neat Beast or Horse-Kind, and eight Pence for each Sheep, and the reasonable Cost of relieving them, besides the Pound-keeper's Fees: And if no Owner appear within the Space of three Days to re-

Creatures turned on said Beach, &c. to be impounded.

Owners to pay a Fine and Cost of Relieving.

Creatures to
be sold in
Case.

deem the said Cattle, Horse-Kind or Sheep so impounded, and to pay the Cost and Damage occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle, Horse-Kind or Sheep, shall cause the same to be sold at Public Vendue, and pay the Cost and Charges about the same (publick Notice of the Time and Place of such Sale being given in the said Town of Biddeford and the two neighbouring Towns forty-eight Hours before Hand) and the overplus, (if any there be) arising by such Sale, to be returned to the Owner or Owners of such Cattle, Horse-Kind or Sheep, at any Time within two Months next after such Sale, upon his demanding the same; but if no Owner appears within said two Months, then the said Overplus shall be one Half to the Persons impounding, and the other Half to be returned to the Town Treasurer of said Town of Biddeford, for the Use of the Poor of said Town.

Fences may
be erected.

And be it further enacted, That the Inhabitants of the said Town of Biddeford shall and may from Time to Time have Liberty of setting up two Fences in the most convenient Places across the Country Road, in order the more effectually to prevent Cattle, Horses and Sheep, going and feeding on said Beach; provided a Gate be made in each Fence sufficient for the Passage of Carts and other Carriages.

Officers to be
chosen to see
this Act ex-
ecuted.

And be it further enacted, That the said Town of Biddeford at their Meeting in March annually for the Choice of Town Officers be authorized and impowred to chuse one or more meet Person or Persons, whose Duty it shall be to see this Act observed, and to prosecute the Breakers thereof, who shall be sworn to the faithful Discharge of their Office; and in Case any Person so chosen shall refuse to be Sworn he shall forfeit and pay the Sum of twenty Shillings for the Use of the Poor of the Town of Biddeford, and upon said Refusal said Town may from Time to Time proceed to a new Choice of such Officer or Officers; and said Town of Biddeford, at a Town Meeting warned for that Purpose, may at any Time chuse such Officers, who shall continue 'till their annual Meeting in March next.

Limitation.

This Act to continue and be in Force for the Space of three Years from the Publication thereof, and no longer.

Reviv'd and Continu'd to January 30. 1771.

[The foregoing Act was Publish'd April 27. 1749.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirty-first Day of *May* 1749.

C H A P. I.

An Act to prevent the Disturbance given the General Court by the passing of Coaches, Chaises, Carts, Trucks, and other Carriages by the Province Court-House.

FORASMUCH as the Noise occasioned by the passing of Coaches Chaises, Carts, Trucks and other Carriages on the South and North Side of the Court House in King-Street in Boston, gives great Interruption to the Debates and Proceedings of the General Court in the Time of their Sitting: Preamble.

For preventing of which for the future:

Be it enacted by the Governor, Council and House of Representatives, That an Iron Chain be properly fix'd to a Post to be set in the Ground within six Feet of the South West Corner of the House late in the Possession of *Samuel Rand* deceased, on the North Side of the said Court House, and that the said Chain be extended a-cross the Street at four Feet distance from the Pavements in the highest Place, and fastned by a Lock to a Post to be set in the Ground within six Feet of the North-West Corner of the said Court House: And that one other Iron Chain be in like Manner fixed to a Post to be set in the Ground within six Feet of the South West Corner of the said Court-House, and that the said Chain be extended a-cross the Street at four Feet in Height from the Pavement at least and fastned by a Lock to another Post to be set in the Ground within six Feet of the Buildings opposite to the said South West Corner; and that the Door-keeper of this Court be and hereby is directed from Day to Day during the Sitting of this Court to extend and fix the said Chains a-cross the said Street, there to be continued until the Adjournment of the same from Time to Time; and upon the Adjournment the said Door-keeper is directed to take away the said Chains. Chains to be set up to prevent the General Court's being disturbed by Coaches Carts, &c.

This Act to continue and be in Force for the Space of one Year from the Publication, and no longer. Limitation.

Reviv'd and Continu'd till July 1. 1770.

[The foregoing Act was Published July 1. 1749.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirty-first Day of *May* 1749, and continued by Prorogation to Wednesday the second Day of *August* following, and then met.

C H A P. II.

An Act for regulating the Hospital on *Rainsford-Island*, and further providing in Case of Sicknefs.

Preamble.

WHEREAS a good and convenient House hath been provided at the Charge of the Province on the Island called *Rainsford's-Island*, for the Reception of such Persons as shall be visited with any contagious Sicknefs:

Inquiry to be made at the Castle respecting infectious Vessels.

Select-Men to certify the Safety of Vessels coming into the Harbour.

Penalty for Master's Offence.

Be it therefore enacted by the Governor, Council and House of Representatives, That Inquiry shall be made by the Officer or other Person on Duty at *Castle William*, of every Vessel coming from Sea and passing by said Castle, whether they are all well on Board, and also whether any infectious Sicknefs has been on board since they left the Port from whence they last came; and if any Vessel inquired of as aforesaid shall have any Sicknefs on Board, and upon further Inquiry the same shall appear to be the Plague, Small-Pox, or any other malignant Infectious Distemper, in such Case Order shall be given to the Master or Commander of such Vessel forthwith to go down with his Vessel, and anchor as near the Hospital at *Rainsford's-Island* as conveniently may be; or if any Vessel inquired of as aforesaid shall have had any infectious Sicknefs on board since they left the Port from whence they last came, in such Case Orders shall be given to the Master or Commander of such Vessel immediately to anchor, and to remain at Anchor until a Certificate shall be obtained from the major Part of the Select-Men of the Town of *Boston*, that they are of Opinion such Vessel may come up to Town without Danger to the Inhabitants, or until the said Master shall receive Orders from the Select-Men to go with his Vessel and anchor near the Hospital aforesaid; and in Case any Master or Commander shall by himself or People on board make false Answer when hail'd by the Castle, or (after Orders given as aforesaid) shall neglect or refuse to anchor near the Castle as aforesaid, or come on Shore, or suffer any Passengers or Persons belonging to the Vessel to come on Shoar, or any Goods to be taken out before the Vessel shall have anchor'd, or without Liberty from the Select-Men as aforesaid, or in Case any Master or Commander ordered to anchor near the Hospital aforesaid, shall neglect or refuse so to do, in every such Case every Master or Commander so offending shall forfeit and pay the Sum of *One Hundred Pounds*, or suffer six Months Imprisonment.

And

Rainsford Island.

And be it further enacted, That upon Application made to the Select-Men of the Town of *Boston* by any Master or Commander of any Vessel at Anchor near the Hospital as aforesaid, the said Select-Men are hereby impowred to permit such Passengers, Goods or Lading as they shall judge free from Infection, to come on Shoar, or be taken out and disposed of as the Owners shall see meet : And such Passengers and Goods as shall not be permitted as aforesaid, shall remain on board, or be landed on said Island ; and if any Master, or immediate Commander of any such Vessel for the Time being, shall come on Shoar, or suffer any of his People or Passengers to come on Shoar, or any Boats to come on board, or suffer any Goods to be taken out of his Vessel, unless permitted as aforesaid, or shall come up with his Vessel, until by a Certificate under the Hands of the Select-Men or major Part of them as aforesaid, it shall appear to the Captain-General, that the said Vessel, Company and Goods, are clear of Infection, and the Orders for stopping and detaining the same be removed and taken off, he shall for every such Offence forfeit the Sum of *fifty Pounds*, and in Case he be not able to pay that Sum, he shall suffer three Months Imprisonment : And if any Sailors or Passengers coming in said Vessel shall, without the Knowledge or Consent of the Master, presume to come on Shoar, or up above the said Castle, or if any Person from Town or Country shall knowingly presume to go on board such Vessel, or go to the aforesaid House or Island in Time of Infection there without Leave as aforesaid ; or if any Person put sick into the said House or sent there on Suspicion of being infected, shall presume to go off the Island without Leave as aforesaid, every Person offending in any of the Particulars above mentioned, shall forfeit the Sum of *forty Pounds*, and in Case any Person be not able to pay the said Sum, he shall suffer two Months Imprisonment : All the before-mentioned Fines to be sued for and recovered by the Select-Men of the Town of *Boston* for the Time being, one Moiety thereof to be to his Majesty for the Use of this Government, the other Moiety to the Informer.

Leave to be
had of the
Select-Men
for landing
Passengers
or Goods.

Forfeiture for
Contempt by
the Master
and others.

And be it further enacted, That when and so often as any Ship or other Vessel wherein any Infection or infectious Sicknes hath lately been, shall come to any Port or Harbour within this Province ; or when and so often as any Person or Persons belonging to or that may either by Sea or Land come into any Town or Place near the publick Hospital within this Province, shall be visited, or who lately before may have been visited with any infectious Sicknes, two of the Justices of the Peace or Select-Men of such Place, be and hereby are impowred immediately to order the said Vessel and sick Persons to the Province Hospital or House aforesaid, there to be taken Care of according to the Direction of this Act ; and where any such Ship, Vessel or Persons cannot without great Inconvenience and Damage be ordered to the aforesaid House or Hospital, in every such Case the Rules and Directions are to be observed which are already made in and by the Act pass'd in the thirteenth Year of the Reign of his late Majesty King *William* the third, Intituled *An Act providing in Case of Sicknes*.

Justices of
the Peace to
order infecti-
ous Vessels or
Persons to the
Hospital.

And be it further enacted, That if any Master, Seaman or Passenger belonging to any Ship, on board which any Infection is or hath lately been, or is suspected to have lately been, or coming from any Port where any infectious mortal Dislemper prevails, shall refuse to make Answer upon Oath to such Questions as may be asked by the Select-Men of the Town (who are hereby impowred to administer the same) to which such Ship shall come, relating to such Infection, such Master, Seaman or Passenger shall forfeit the Sum of *fifty Pounds* ; and in Case he be not able to pay said

Penalty for
not answering
on Oath re-
ferring to
Infection.

Sum, he shall suffer fix Months Imprisonment, the abovementioned Fine to be sued for and recovered by the Select-Men of the respective Towns where the Offence shall be committed; one Moiety thereof to be to his Majesty for the Use of this Government, and the other Moiety to the Informer; and where any Person shall be convicted of any Offence against this Act, and suffer the Pains of Imprisonment, and shall be unable to pay the Costs of Prosecution, such Costs shall be paid by the several Towns to which such Persons respectively belong, or if not Inhabitants, shall be allowed and paid out of the Province Treasury; and the Select-Men of *Boston* are directed and impowered to provide Nurser, Assistance and other Necessaries for the Comfort and Relief of such sick Persons sent to said Hospital as aforesaid; the Charge thereof to be born by the said Persons themselves, if able, or if Poor and Indigent by the Towns to which they respectively belong, or if not Inhabitants, then at the immediate Charge of the Province.

Continuance
of the Act.

This Act to be and continue in Force until the first Day of *September*, which shall be in the Year of our Lord One Thousand seven Hundred and fifty-six, and to the End of the Session of the General Court next after, and no longer.

Reviv'd and Continu'd 'till July 1. 1770.

CHAP. III.

An Act for the punishing such Offenders as shall be any Ways concerned in contriving, writing, or sending any incendiary or menacing Letters, in order to extort Sums of Money, or other Things of Value from any of his Majesty's good Subjects.

Preamble.

WHEREAS there has been of late divers Letters without a Name sent to several of his Majesty's good Subjects of this and some of the neighbouring Governments, by abandoned Villians, demanding from them large Sums of Money, and threatening Ruin and Destruction to their Persons and Estates, in Case they should fail of a Compliance with their Demands:

Therefore for deterring and punishing such Offenders and their Accomplices:

Penalty for
sending
threatning
Letters to
extort Mo-
ney.

Be it enacted by the Governor, Council and House of Representatives, That if any Person or Persons shall send any such Letter or Letters without a Name subscribed, or signed with a fictitious or counterfeit Name, requiring or demanding any Sum or Sums of Money, or any other valuable Thing, knowing the Purport thereof, or that shall counsel, advise or contrive any such Letter as aforesaid, or that shall indite or write the same, and be convicted thereof, such Person or Persons shall be punished by sitting on the Gallows for the space of one Hour with a Rope about his her or their Neck, and

Destruction of Fish.

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and afterwards shall be set upon the Pillory, and there have one of his, her or their Ears cut off, and be further punished by Imprisonment for the Space of three Years, during all which Time such Person or Persons shall be kept to hard Work, and every three Months from the Commitment be brought out and whip'd twenty Stripes on the naked Back at the publick Whipping Post.

And be it further enacted, That if any Person shall be knowing to the contriving any such Letter as aforesaid, or to the writing, carrying or sending the same (tho' not concerned therein) and shall not immediately discover the same to some lawful Authority, such Person shall be deemed guilty of an high Misdemeanour. Penalty for contriving writing &c. such Letters.

And be it further enacted, That this Act shall be publicly read by the Town Clerk in each Town through this Province at their Meeting in March annually. Act to be read in Town Meetings.

This Act to continue and be in Force for the Space of three Years from the Publication thereof, and no longer. Limitation.

Reviv'd and Continu'd till January 30. 1771.

[*The two foregoing Acts were Published August 22, 1749.*]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirty-first Day of *May* 1749, and continued by fundry Prorogations to the twenty-second of *November* following, and then met.

C H A P IV.

An Act to prevent any Persons obstructing the Fish in their passing up into *Monatiquot-River* within the Town of *Braintree*.

WHEREAS the Act made and passed in the fourteenth Year of his present Majesty's Reign, Intituled An Act to prevent any Persons obstructing the Fish in their passing up into *Monatiquot River*, within the Town of *Braintree* hath been found beneficial to the said Town and Towns adjacent; but is now expired: Preamble.

Be it enacted by the Lieutenant Governor, Council and House of Representatives, That no Person or Persons whosoever, from the first Day of Season for taking Fish of

Penalty for
Breach of
this Act.

of *February* next to the last Day of *May* yearly, during the Continuance of this Act, shall presume to take, kill or hale ashore any Fish with Seines or Drag Nets in the said River *Monatiquot*, or in any Part of the River between the Town of *Weymouth* and said Town of *Braintree*, through which they pass into the same, upon Pain of forfeiting for each and every Offence on due Conviction thereof, the Sum of *ten Pounds*, to be recovered by Action, Bill, Plaint or Information, in any of his Majesty's Courts of Record proper to try the same; the one Half of the said Forfeitures to be to and for the Use of the Towns of *Weymouth* and *Braintree* in equal Proportion, the other Half to him or them who shall inform and sue for the same.

Limitation.

This Act to continue and be in Force for the Space of three Years from the first Day of *February* next; and no longer.

Reviv'd and Continu'd 'till January 30. 1771.

[*The foregoing Act was Publish'd January 9. 1749.*]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirty-first Day of *May* 1749, and continued by sundry Prorogations and an Adjournment to the twenty-second Day of *March* following, and then met.

CHAP. V.

An Act against diminishing or counterfeiting Money.

Punishment
for counter-
feiting, clip-
ping or di-
minishing any
Coin, &c.

Or uttering
such Coin.

BE it enacted by the Lieutenant-Governor, Council and House of Representatives, That if any Person or Persons after the Publication of this Act, shall forge or counterfeit Money or Coin, the Currency of which is established or regulated by the Laws of this Province, or shall forge or counterfeit any Money or Coin that is or shall be current in this Province, or shall for Gain wash, clip, round, file, impair, falsify, scale, lighten or diminish, any or either of the Monies or Coins aforesaid, or that shall utter any such false, forged, counterfeit, washed, clipped, rounded, filed, impaired, scaled, lightened or diminished Money or Coin, knowing the same to be false, forged, counterfeited, washed, clipped, rounded, filed, impaired, scaled, lightened, or diminished, and be thereof convicted at the Superiour Court of Judicature, Court of Assize and General Goal Delivery, every such Person shall be fined at the Discretion of the said Court, and also be set in the Pillory for the Space of one Hour, and then have one of his, her or their Ears cut off, and from thence

Excessive Usury.

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thence be drawn to the Gallows and set thereon with a Rope about his, her or their Necks for the Space of an Hour, and shall then be publicly whipped not exceeding twenty Stripes, and shall then be committed to the House of Correction (but not receive the usual Punishment at his, her or their first Entrance) and be kept to hard Labour for the Space of three Years.

Provided nevertheless, That the Justices of said Court may and shall at their Discretion abate any Part of the Pains and Penalties aforesaid, according to the Circumstance of the Offence : And upon a second Conviction of any or either of the Offences aforesaid, such Offender or Offenders shall be committed to the House of Correction, and there kept to hard Labour for the Space of twenty Years. Proviso.
Punishment
on a second
Conviction.

Saving always, That nothing in this Act mentioned shall be construed so as to prevent any Goldsmith or other Person from melting into Bullion or working into Plate any of the Moneys aforesaid, except his Majesty's Coins. Saving.

Provided also, That the making use of the Copper Half-Pence and Farthings for the making and mending any Vessel shall not be construed a Breach of this Act. Proviso.

And be it further enacted, That whoever shall inform of any of the foregoing Offences so as the Offender or Offenders may be convicted of the same, such Informer shall receive out of the Treasury of this Province, the Sum of *twenty five Pounds*. Reward to
the Informer.

And be it further enacted, That whoever shall buy or receive any Clippings, Scalings or Filings of any of the aforesaid Coins, knowing them to be Clippings, Scalings or Filings of the same, shall be imprisoned for the Space of one Year, and pay a Fine of *fifty Pounds*, one Moiety whereof shall be to his Majesty for and towards the Use of the Government within this Province; and the other Moiety to him or them that shall inform of said Offence, so as the Offender or Offenders may be convicted of the same. Penalty for
buying clip-
pings of Coin
&c.

This Act to continue and be in Force for the Space of *five Years* from and after the Publication of it, and no longer. Limitation.

Reviv'd and Continu'd 'till July 1. 1776.

C H A P. VI.

An Act in Addition to and for rendring more effectual
An Act for the restraining the taking excessive
Usury.

WHEREAS in and by an Act made and pass'd in the *fifth Year* Preamble.
of the Reign of King William and Queen Mary intituled, An Act for
the restraining the taking excessive Usury, it is enacted, " That
" no Person or Persons whatsoever from and after the first Day of *August*,
" in the Year of our Lord One Thousand six Hundred and ninety three, upon
[T] " any

" any Contract to be made after that Time, shall take directly or indirectly,
 " for Loan of any Moneys, Wares, Merchandize or other Commodities
 " whatsoever above the Value of *six Pounds* for the Forbearance of *One*
 " *Hundred Pounds* for a Year; and so after that Rate for a greater or lesser
 " Sum, or for a longer or shorter Time : " *Notwithstanding which, many*
Persons do presume to take and reserve much more for Interest than the
Rate aforesaid, to the Discouragement of Industry, Trade and Commerce
in this Province; the discovery and detecting whereof is difficult, and the
Provision by the Law already made has proved in many Cases ineffectual :

For Preventing whereof for the future :

Penalty for
taking more
than *six per*
Cent for In-
terest.

Proof to be
made by the
Debtors Oath

Unless the
Creditor will
discharge
himself upon
Oath.

Proviso.

Limitation.

Be it enacted by the Lieutenant-Governor, Council and House of Re-
presentatives, That when and so often as any Person or Persons are or shall
be sued on any Bond, Contract, Mortgage or Assurances whatsoever, made
after the tenth Day of April Anno Domini One Thousand seven Hun-
dred and fifty, for the Payment of any Moneys, Wares or Merchandize or
other Commodities whatsoever, whereby or wherein any Sum is given, se-
cured, or taken for the forbearing or giving Day of Payment for a longer
or shorter Time, then and in such Case (the Creditor being alive) if the
Debtor or Debtors shall come into Court where the said Cause is to be
tried, and shall offer to make Oath, and, if required by the Court actually
Swear to the same, that there is taken, reserved or secured by such Bond,
Contract, Mortgage or Assurance, above the Rate of six Pounds in the Hun-
dred for the Forbearance of the same, whether it be Money or other Things
for one Year, and so after that Rate for any greater or lesser Sum, or for a
longer or shorter Time, or that the Creditor or Creditors have received
more than at the Rate of six Pounds in the Hundred for the Loan of the
Money or other Things sued for, such Bond, Contract, Mortgage or As-
surance shall be utterly void, and the Debtor fully and absolutely discharged
from the Payment of any Moneys, Goods or other Things lent, exchanged,
bargained, sold or agreed for as aforesaid, unless the Creditor or Creditors
will bonâ fide Swear, That he, she or they, have not directly or indirectly,
wittingly taken or received more than after the Rate of six per Cent. for
Forbearance or giving Day of Payment, and that by such Bond, Contract,
Mortgage or Assurance, there is not reserved, secured or taken more than
after the Rate of six per Cent. for Forbearance or giving Day of Payment
for the Goods, Moneys or other Things sued for or demanded : Any Law,
Usage or Custom to the contrary notwithstanding.

Provided nothing in this Act shall extend to the letting of Cattle, or other
 Usages of like Nature in Practice amongst Farmers, or Maritime Contracts
 amongst Merchants as Bottomry, Insurance or Course of Exchange, as hath
 been heretofore accustomed.

This Act to continue and be in Force for the Space of five Years from the
 Publication thereof, and no longer.

Reviv'd and Continu'd 'till July 1. 1770.

C H A P. VII.

An Act to prevent Stage-Plays and other Theatrical Entertainments.

FOR preventing and avoiding the many and great Mischiefs which arise from publick Stage-Plays, Interludes and other Theatrical Entertainments, which not only occasion great and unnecessary Expences, and discourage Industry and Frugality, but likewise tend generally to increase Immorality, Impiety and a Contempt of Religion: Preamble.

Be it enacted by the Lieutenant Governor, Council and House of Representatives, That from and after the Publication of this Act no Person or Persons whosever shall or may for his or their Gain, or for any Price or valuable Consideration, let or suffer to be used and improved any House, Room or Place whatsoever, for acting or carrying on any Stage-Plays, Interludes or other Theatrical Entertainments, on Pain of forfeiting and paying for each and every Day or Time such House, Room or Place shall be let, used or improved contrary to this Act twenty Pounds. Penalty for letting any House for Stage-Plays, &c.

And be it further enacted, That if at any Time or Times whatsoever from and after the Publication of this Act any Person or Persons shall be present as an Actor in or Spectator of any Stage-Play, Interlude or Theatrical Entertainment in any House, Room or Place where a greater Number of Persons than twenty shall be assembled together, every such Person shall forfeit and pay for every Time he or they shall be present as aforesaid five Pounds. Penalty to Actors and Spectators.

The Forfeitures and Penalties aforesaid to be one Half to His Majesty for the Use of the Government, the other Half to him or them that shall inform and sue for the same. And the aforesaid Forfeitures and Penalties may likewise be recovered by Presentment of the Grand Jury; in which Case the whole of the Forfeiture shall be to his Majesty for the Use of this Government. Disposal and Manner of recovering the Penalties.

This Act to be in Force and continue five Years from the Publication thereof, and no longer. Limitation.

Reviv'd and Continu'd till July 1. 1770.

[The five foregoing Acts were Published April 21. 1750.]

C H A P. VIII.

An Act in Addition to the Act Intituled, *An Act to encourage the Increase of Sheep and Goats.*

WHERAS in and by an Act made in the fourteenth Year of his present Majesty's Reign, Intituled, *An Act to encourage the Increase of Sheep and Goats, it is enacted*, " That from and after the Publication of the said Act, no Rams or He-Goats shall be suffered to go at Large, or be out of the Inclosure of the Owner thereof, from the tenth Day " Preamble.

" Day of *August* 'till after the fifteenth Day of *November* annually, under
 " Penalty of *fifteen Shillings* : " which has been found inconvenient in some
 Towns in this Province, in as much as by a strict Adherence to the said
 Act the Lambs and Kids will annually come too late for Profit :

Wherefore,

Towns may
 give Liberty
 for Sheep and
 Goats to go
 at large, &c.

Be it enacted by the Lieutenant Governor, Council and House of Representatives, That it shall be in the Power of any Town at a Town Meeting for that Purpose appointed, by a Vote to give Liberty for Rams or He-Goats to go at Large within the Bounds of such Town, at any other Times than those limited in said Act, or to restrain them, as the several Towns at such Meeting shall think proper ; and in such Case it shall be lawful for any and every Person or Persons to suffer his or their Rams and He-Goats to go at Large : Any Thing in the before recited Act to the contrary notwithstanding.

Continu'd to July 1. 1770.

An Act,

Passed by the Great and General Court or Assembly of
 His Majesty's Province of the *Massachusetts-Bay* in
New-England : Begun and Held at *Boston* upon
 Wednesday the thirtieth Day of *May* 1750.

CHAP. I.

An Act in Addition to the Act for better regulating Swine.

Preamble.

WHEREAS in and by an Act made and pass'd in the twentieth Year of his present Majesty's Reign, Intituled, An Act for the better regulating Swine, It is among other Things enacted, " That from
 " and after the Publication thereof, under certain Penalties in said Act
 " mentioned ; Provided Nevertheless, That it shall be in the Power of
 " any Town in a Town Meeting for that Purpose appointed, from Time to
 " Time by a Vote to give Liberty for Swine going at Large within the
 " Bounds of such Town ; and in such Case, it shall be lawful for any and
 " every Person and Persons to suffer his or their Swine to go at Large."
 And whereas the Power therein granted to the several Towns of assembling
 for giving Liberty for Swine to go at Large is not restrained to any parti-
 cular Time of the Year ; by Reason whereof some Towns have been sundry
 Times called together for that Purpose in different and sometimes in busy
 Seasons of the Year, whereby their private Affairs and Business have been
 interrupted, and much Time needlessly expended, and Contentions raised
 among the Inhabitants :

For the Prevention whereof for the future ;

Be

Suppreffing of Riots, &c.

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Be it enacted by the Lieutenant Governor, Council and House of Representatives, That from and after the Publication of this Act, the Power of the feveral Towns of granting Liberty for Swine to go at Large be and the same is hereby reſtrained to the Month of *March* in the feveral Years during which the ſaid Act is to continue in Force, and to the Anniverſary Meeting for the Choice of Town Officers in the ſame Month, at which Time, it ſhall be lawful for any Town to give Liberty for Swine to go at Large during the Whole or ſuch Part of the Year as ſhall be judged moſt for the Benefit of the Inhabitants.

Power of Towns for granting Liberty for Swine to go at Large limited.

And whereas the Situation and Circumſtances of the different Parts of ſome Towns may be ſuch, as that it may be convenient that Swine go at Large in one Part, and not ſo in another Part of the ſame Town :

Preamble.

Be it therefore enacted, That when the Inhabitants of any Town within this Province ſhall judge it moſt convenient for Swine to go at Large in ſome certain Part or Parts only of the Town, ſuch Town is hereby impowered (under the aforeſmentioned Reſtriction as to Time) to grant Liberty for Swine to go at Large within ſuch Limits as ſhall be aſſigned for that Purpoſe by the Town ; and if any Swine ſhall be found going at Large without ſuch Limits (either of Place or Time) as ſhall be ſo aſſigned, the Owner or Owners thereof ſhall incur the Penalties by the Act aforeſaid in ſuch Caſe already provided.

Limits for Swine going at large.

This Act to continue in Force until the End of the Sitting of the General Court in *May* Anno Domini *One Thouſand ſeven Hundred and fifty ſeven*, and no longer.

Limitation.

Reviv'd and Continu'd 'till July 1. 1770.

[*The foregoing Act was Publiſh'd June 30. 1750.*]

An Act,

Paſſed by the Great and General Court or Aſſembly of His Maſteſty's Province of the *Maſſachuſetts-Bay* in *New-England* : Begun and Held at *Boston* upon Wednesday the thirtieth Day of *May* 1750, and continued by Prorogations to Thursday the tenth Day of *January* following.

C H A P. II.

An Act for preventing and ſuppreſſing of Riots, Routs, and unlawful Aſſemblies.

WHEREAS the Proviſion already made by Law has been found inſufficient to prevent Routs, Riots, and tumultuous Aſſemblies, and the evil Conſequences thereof : Wherefore,

[V]

Be

Officers to
make Procla-
mation when
Persons are
riotously as-
sembled.

Be it enacted by the Lieutenant-Governor, Council and House of Representatives, That from and after the Publication of this Act, if any Persons to the Number of Twelve or more, being arm'd with Clubs or other Weapons, or if any Number of Persons consisting of Fifty or upwards, whether armed or not, shall be unlawfully, riotously or tumultuously assembled; any Justice of the Peace, Field-Officer or Captain of the Militia, Sheriff of the County or Under-Sheriff, or any Constable of the Town, shall among the Rioters, or as near to them as he can safely come, command Silence while Proclamation is making, and shall openly make Proclamation in these or the like Words,

Form of the
Proclamation.

Our Sovereign Lord the KING, chargeth and commandeth all Persons, being assembled, immediately to disperse themselves, and peaceably to depart to their Habitations, or to their lawful Business, upon the Pains contained in the Act of this Province made in the twenty-fourth Year of his Majesty King GEORGE the Second, for preventing and suppressing of Riots, Routs, and unlawful Assemblies. GOD Save the KING.

Penalty for
Disobedience.

And if such Persons so unlawfully assembled, shall after Proclamation made, not disperse themselves within one Hour, it shall be lawful for every such Officer or Officers, and for such other Persons as he or they shall command to be assisting, to seize such Persons, and carry them before a Justice of Peace: And if such Person shall be killed or hurt by Reason of their resisting the Persons so dispersing or seizing them, the said Officer or Officers and their Assistants shall be indemnified and held guiltless. And all Persons who for the Space of one Hour after Proclamation made as aforesaid, or to whom Proclamation ought to have been made, if the same had not been hindred, shall unlawfully, routously, riotously and tumultuously continue together, or shall wilfully let or hinder any such Officer who shall be known, or shall openly declare himself to be such, from making the said Proclamation, shall forfeit all their Lands and Tenements, Goods and Chattels, to His Majesty (or such a Part thereof as shall be adjudged by the Justices before whom such Offence shall be tried) to be applied towards the Support of the Government of this Province, and shall be whipt thirty-nine Stripes on the naked Back at the publick Whipping-Post, and suffer one Year's Imprisonment, and once every three Months during said Imprisonment, receive the same Number of Stripes on the naked Back, at the publick Whipping-Post, as aforesaid. And if any such Person or Persons so riotously assembled, shall demolish or pull down, or begin to demolish or pull down any Dwelling-House or other House parcel thereof, any House built for publick Uses, any Barn, Mill, Malt-House, Store-House, Shop or Ship, he or they shall suffer the same Pains and Penalties, as are before provided in this Act.

This Act to be
read at the an-
niversary Meet-
ing of the
Towns & Ge-
neral Sessions
of the Peace.

And be it further enacted, That this Act shall be read at every General Sessions of the Peace, and at the anniversary Meeting of each Town, within this Province annually; and no Person shall be prosecuted for any Offence contrary to this Act, unless Prosecution be commenced within twelve Months after the Offence committed.

Judges im-
powred to a-
bate the Pu-
nishment of
Whipping, in
Case.

Provided always, That where there shall appear any Circumstances to mitigate or alleviate any of the Offences against this Act in the Judgment of the Court before which such Offence shall be tried, it shall and may be lawful for the Judges of such Court to abate the whole of the Punishment of

of Whipping, or such Part thereof as they shall judge proper: Any Thing in this Act to the contrary notwithstanding.

This Act to continue and be in Force for the Space of three Years from Limitation: the Publication thereof, and no longer.

Revis'd and Contin'd to July 1. 1770.

[The foregoing Act was Published February 14. 1750.]

Acts and Laws,

Passed

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirtieth Day of *May* 1750, and continued by Prorogations and Adjournment to Wednesday the twenty-seventh Day of *March* following.

C H A P. III.

An Act providing for the Support of Ministers in New Plantations.

WHEREAS the Power by Law granted to the Courts of General Sessions of the Peace within this Province to afford Relief to Ministers who shall not be suitably supported, is so restrained as not to extend to the Relief of such Ministers as are or may be settled in new Plantations not erected into Towns or Districts; and it being necessary that Provision be made by Law for the Encouragement and Maintenance of such: Preamble.

Be it therefore enacted by the Lieutenant Governor, Council and House of Representatives, That in Case of Neglect in the Proprietors or Occupants of any new Plantation within this Province in fulfilling their Contract or Agreement with the Minister or Ministers of such Plantation (qualified as the Laws directs) respecting his or their Settlement or Support, the Court of General Sessions of the Peace within and for the County wherein such Plantation is, are hereby impowered and directed (upon Application to them made for that Purpose) to provide for the Relief of such Minister or Ministers: And in Case the Assessors for such new Plantation do or shall neglect duly to assess and apportion the full Sum voted or agreed on for the Settlement or Support of such Minister or Ministers, according to the true Intent of the Contract, the said Court are hereby impowered and directed to appoint three or more sufficient Freeholders within the same County, to assess the Occupants or Proprietors who are Parties to such Contract, such Sum as (at the Time of making such Application) shall be judged by said Court to be due Ministers of new Plantations, their Salaries to be assessed by the Court of General Sessions of the Peace.

Warrant in usual Form to be directed to the Collectors to collect said Assessment.

due to such Minister or Ministers by Virtue of such Contract together with such further Sum (in Case Payment has been long and unreasonably delayed) as said Court shall judge sufficient, to afford to such Minister or Ministers meet Recompence for any Damages sustained by such Neglect; such Assessment to be made on the Occupants or Proprietors in such Proportion as they may have agreed among themselves, or (if no such Agreement shall appear as said Court shall judge most just and equitable; and said Court shall make out and affix to a List of such Assessment a Warrant (in like Form *mutatis mutandis* as is by Law prescribed for levying and collecting of Town Rates or Assessments) which Warrant shall be signed by the Clerk of such Court, and directed to the Collector or Collectors of Taxes in such Plantation (if any there be) or to such Person or Persons as said Court shall appoint for that Purpose, requiring him or them to collect and levy the Sum total of the said List, and to pay in the same unto such Minister or Ministers, or to such Person or Persons as said Court shall appoint to receive the same for his or their Use; and such Collector or Collectors; or other Person or Persons to whom such Warrant shall be directed, are hereby fully authorized to execute the same, and to collect such Assessment of the Persons named in such List, wheresoever they may be found within this Province.

Delinquent Assessors and Collectors to be convented before the Court.

Fine to be imposed.

And be it further enacted, That when and so often as timely Payment of his or their Dues shall be with-held from the Minister or Ministers of such new Plantation, the Justices of the said Court of General Sessions of the Peace are hereby empowered and directed to convent before them the Assessors, Collector or Collectors, or such others as have been or may be specially appointed by the Occupants or Proprietors of such Plantation, to take Care in that Matter, and upon Conviction of Neglect therein to impose a Fine on each Delinquent not exceeding *forty Shillings* for the first Offence, and upon every after Conviction of such Neglect to impose a Fine of *four Pounds*, to be levied by Distress and Sale of the Offender's Goods, and to be applied for the making of meet Satisfaction unto the Assessors or Collectors that may have been appointed and employed by said Court in the Service aforesaid; the Remainder (if any be) to be paid to the County Treasurer, for defraying the necessary Charges of the County.

Limitation.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Reviv'd and Continu'd till July 1. 1767.

CHAP. IV.

An Act in Addition to an Act for regulating Fences, Cattle, &c.

Preamble.

WHEREAS in and by an Act made and pass'd in the fifth Year of the Reign of King William and Queen Mary, Intituled, An Act for regulating Fences, Cattle, &c. It is enacted, That
 "for every Sheep in every Town, going on the Commons without
 "being under the Hand of a Shepherd, from the first of May to the last
 "of October in every Year, the Owner or Keeper of the said Sheep shall pay

Judicial Proceedings.

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" pay the Sum of three Pence, for every Sheep at any Time so found running on the Common, not under the Hand of a Shepherd or Keeper between the first of May and last of October yearly ;" And it being found by Experience that great Damage is often done by Sheep in the Month of April, especially among English Grain :

Therefore to prevent such Inconveniencies for the future :

Be it enacted by the Lieutenant-Governor, Council and House of Representatives, That for every Sheep in any Town within this Province going on the Commons or Ways, without being under the immediate Care and Inspection of a Shepherd or Keeper from the fifteenth of March to the last Day of October in every Year, the Owner or Keeper of such Sheep shall pay three Pence for each and every Sheep so found running on the Commons or Ways, without a Shepherd or Keeper at any Time from the fifteenth Day of March to the last of October.

Fine for Sheep going at Large without a Shepherd between the 15th of March and the last of October yearly unless allowed by the Town.

Provided nevertheless, That it shall be in the Power of any Town at their annual Meeting in March, by a Vote to give Liberty for Sheep to go at Large the whole or any Part of the Time between the said fifteenth Day of March and the first Day of May ; and in such Case, it shall be lawful for the Sheep in such Town to go at Large during such Time as shall be so voted : Any Thing in this or the before-recited Act to the contrary notwithstanding.

Provido.

This Act to continue and be in Force for five Years from the Publication thereof, and no longer.

Reviv'd and Continu'd 'till July 1. 1767.

[The two foregoing Acts were Published April 27. 1751.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England : Begun and Held at Boston upon Wednesday the twenty-ninth Day of May 1751, and continued by Prorogations to Friday the twenty-seventh Day of December following.

CHAP. V.

An Act for the better Regulation of the Course of Judicial Proceedings.

WHEREAS by an Act made and passed in the second Year of the Reign of Queen Anne, it is provided that " all Pleas in Bar or Preamble.

" Abatement shall be made originally in the Inferiour Courts in Suits there brought ; and that when a Writ shall by Judgment of Court be

[X]

barred

"barred or abated, and the Plaintiff or Demandant appeals from such
 "Judgment to the Superiour Court of Judicature, if upon hearing the Ap-
 "peal, the Superiour Court, notwithstanding the Pleas in Bar or Abate-
 "ment adjudge the Writ to be good and well brought, they shall reverse the
 "Judgment of the Inferiour Court and Award to the Appellant his full Costs
 "of both Courts; and the next Session of the Inferiour Court holden for
 "the same County shall proceed to Trial of the Merits of the Cause
 "upon the same Writ without any Delay, a new Entry thereof being made,
 "and that the same Rule and Method of Proceeding be observed in Appeals
 "to be made from the Judgment in Bar or Abatement given by any Justice
 "of the Peace, to the Inferiour Court of Common Pleas: *In which Course*
of Proceedings, Suits are not only frequently unreasonably delayed, but the
Parties are therein put to needless Expence:

To the End therefore that Justice may more speedily and with less
 Expence be done:

Upon rever-
 sing Judg-
 ment in A-
 batement of
 Writs, the
 Court to pro-
 ceed to try
 the Cause on
 the Merits.

*Be it enacted by the Lieutenant Governor, Council and House of Repre-
 sentatives, That when the Superiour Court of Judicature, Court of Assize
 and General Goal Delivery shall reverse a Judgment given by any Inferiour
 Court of Common Pleas for abating a Writ; and when any Inferiour Court
 of Common Pleas shall reverse a like Judgment given by a Justice of the
 Peace; the respective Courts that reverse the Judgment, shall proceed to try
 the Cause, give Judgment therein, and award Execution thereon.*

Limitation.

This Act to continue and be in Force for the Space of three Years from
 the Publication thereof, and no longer.

Reviv'd and Continu'd till July 1, 1767.

C H A P. VI.

An Act to empower the Proprietors of the Meeting-
 House in the first Parish in *Salem* where the Rever-
 end Mr. *John Sparhawk* now officiates, and also
 the Proprietors of the Meeting-House in the third
 Parish in *Newbury* where the Reverend Mr. *John*
Lowell officiates, to raise Money for defreying Minis-
 terial and other necessary Charges.

Preamble.

WHEREAS it is found inconvenient to raise Money for defreying
 Ministerial Charges in the first Parish in *Salem* and third Parish in
Newbury by an Assessment or Tax on Palls and Estates in said
 Parishes:

Proprietors of
 the Meeting-
 Houses in the
 first Parish in
Salem and the
 third Parish in
Newbury im-
 powered to af-

*Be it therefore enacted by the Lieutenant Governor, Council and House of
 Representatives, That the Proprietors of the Meeting-House in the said first
 Parish in Salem, in which the Reverend Mr. John Sparhawk officiates, and
 the Proprietors of the Meeting-House in the third Parish in Newbury, in
 which Mr. John Lowell officiates, be and hereby are allowed and impow-
 ered*

Pews to be Rated.

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ered to raise by an Assessment or Tax on the Pews in the respective Meeting-Houses aforementioned such Sum or Sums as shall be agreed upon by the Proprietors or the major Part of such of them as shall be assembled at any legal Meeting called for that Purpose, for defreying the Ministerial and other incidental Charges; the first Meeting of such Proprietors to be called agreeable to the Direction of the Act made and passed in the eighth and ninth Years of his present Majesty's Reign, entitled, *An Act directing how Meetings of Proprietors in Wharves or other real Estate may be called*:

And to the Intent that such Tax or Assessment may be equitably made and duly collected:

Be it further enacted, That the Proprietors of the respective Meeting-Houses aforementioned be and hereby are impowered to cause the Pews in each of the aforesaid Meeting-Houses to be valued according to the Convenience of said Pews and the Scituation thereof, and to put a new Estimate upon the Pews from Time to Time as shall be found necessary, and to determine how much each Pew or Part of a Pew shall pay towards defreying the Charges aforesaid, and the Time and Manner in which the same shall be paid, and appoint a Collector or Collectors to collect the Sum or Sums so agreed to be raised, who shall be sworn to the faithful Discharge of his said Trust. And if any Proprietor or Owner of a Pew in either of the aforementioned Houses shall neglect or refuse to pay the Sum or Sums assessed thereon after having twenty Days Notice given him by the Collector, the Proprietors of the respective Meeting-Houses shall be and hereby are impowered by themselves or by their Committee to sell or dispose of the Pew of such Delinquent according to the Valuation thereof as aforesaid, and with the Money raised by such Sale to pay the Assessment or Tax on said Pew remaining unpaid, together with the Charges arising on the Sale, the Overplus, if any there be, to be returned to the Owner thereof.

Manner of
Proceeding in
raising such
Tax.

Provided nevertheless, That when the Owner of any Pew shall make a Tender of the same to the Proprietors or to their Committee at the Valuation aforesaid, and they shall refuse or neglect to accept the same, no Sum shall be deducted out of the Sale of said Pew but such only as shall have become due before the making of said Tender.

Proviso.

And whereas Application hath been made to this Court to enable the Proprietors of the Meeting House in said third Parish in Newbury to raise Part of the Sum that may be necessary for defreying Ministerial Charges on the Persons and Estates of such as occupy Pews or Seats in said Meeting-House, and usually attend the publick Worship of GOD in said House, over and above what may be raised on the Pews:

Preamble.

Be it therefore enacted, That the Proprietors of said House be and hereby are impowered to tax or assess the several Persons occupying or possessing Pews or Seats or Parts of Pews and Seats who usually attend the publick Worship in said House, according to their several Abilities and Circumstances, in order to raise Money sufficient together with what may be assessed on the Pews to defrey their Ministerial and other incidental Charges; and the said Assessment or Tax shall be made and collected by such Rules as Parish Taxes are made and collected; and thereupon all other Persons and their Estates in said Parish not usually attending the publick Worship

The whole
Ministerial
Charge to be
raised on the
Proprietors at
Newbury.

in said House, as well as those who do, shall be freed from all Parish Taxes during their continuing to raise Money as aforesaid.

Limitation.

This Act to continue and be in Force for the Space of three Years from the Publication of the same, and no longer.

Reviv'd and Continu'd till March 29. 1770.

[The two foregoing Acts were Published January 31, 1752.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Concord* in the County of *Middlesex*, upon Wednesday the twenty-seventh Day of *May* 1752, and continued by Prorogations to Wednesday the twenty-second Day of *November* following, and then met at *Cambridge*.

CHAP. I.

An Act for further regulating the Proceedings of the Courts of Probate within this Province.

Executors of Wills to Account with the Judge of Probate.

BE it enacted by the Lieutenant Governor, Council and House of Representatives, That every Person named or to be named Executor in any last Will and Testament duly proved and approved, and who hath or shall accept of that Trust, shall stand accountable to the Judge of Probate (for the Time being) of the County where such last Testament was or shall be so approved, for and concerning the Estate of the Testator in his or her Hands or Possession, and touching his or her Proceedings in discharge of said Trust, when thereunto lawfully required: And every such Executor who (not having fully administered the Estate of the Testator, and paid his Debts and Legacies) shall refuse or neglect to Account as aforesaid (on Oath) at such reasonable Time as the said Judge shall assign, being duly cited thereunto by such Judge upon Application to him made for that Purpose, by any Heir, Legatee or Creditor, shall stand charged in the same Manner, and incur the same Penalties and Forfeitures, to be alike recovered and applied, as upon their Refusal to exhibit an Inventory, Executors are liable to by Force of the Act made in the twelfth Year of his present Majesty's Reign, Intituled *An Act for the more effectual obliging of Executors to inventory the Estates of their Testators*.

Penalty.

Provided always, That nothing in this Act foregoing shall be understood to extend to any Executor who is or may be the Residuary Legatee to any last

Probate of Wills.

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last Will and Testament, and who may or shall have given Bond for the Payment of Debts and Legacies in Manner as is by Law already provided.

Proviso in Case the Executor be a residuary Legatee.

And be it further enacted, That every Commissioner for receiving the Claims of the Creditors to any Estate represented Insolvent shall be under Oath faithfully to discharge the Trust reposed in him, such Oath to be administered by the Judge of Probate in all Cases where the Commissioners shall live within ten Miles of such Judge's Dwelling House, otherwise either by the said Judge, or by any Justice of the Peace for the County.

Commissioners to be under Oath.

And be it further enacted, That when and so often as any Person suspected of concealing or embezzling any Part of the Estate of any Person deceased, shall have been cited pursuant to Law, and shall refuse to appear before the Judge of Probate, the said Judge is hereby empowered by Warrant under his Hand and Seal directed to any Sheriff, his Deputy or Constable, or any of them, to cause such suspected Person to be apprehended, and brought before such Judge, in order to his being examined and proceeded with as the Law in such Case doth direct.

Judge of Probate to issue Warrant upon Embezzlement.

And be it further enacted, That the several Judges of Probate, be and they are hereby empowered by Warrant as aforesaid to convene before them any Person that has been or may be intrusted by any Executor or Administrator with any Part of the Estate of the Testator or Intestate, and to be assisting to such Executor or Administrator in the Execution of their Trust, and shall refuse (upon due Citation issued from the Judge of Probate for that Purpose) to appear before him, and render a full Account upon Oath of any Money, Goods or Chattles, and of any Bonds, Accounts or other Papers, left by the Testator or Intestate which he shall have taken into his Hands or Custody, and of his Proceedings for and on Behalf of such Executor or Administrator in his Capacity as such. And if such Person shall refuse to render Account as aforesaid, such Judge may proceed against him, as Judges of Probate are by Law authorized to proceed against any Person or Persons suspected of Concealment, who refuse to acquit themselves on Oath.

Persons that have been intrusted or have any Part of the Estate in their Hands to be proceeded with in Case of Concealment.

And be it further enacted, That when any Minor above the Age of fourteen Years, shall be cited by the Judge of Probate to chuse a Guardian, and such Minor shall refuse or neglect to appear, or when any Minor above the Age of fourteen Years, after appearing, shall refuse to chuse a Guardian, or any Guardian chosen by such Minor, shall be unable to give sufficient Security, or when any Minor above the Age of fourteen Years shall be out of this Province; in every such Case, the Judge of Probate shall have the same Power to appoint a Guardian as such Judge by Law would have in Case such Minor were under the Age of fourteen Years.

The Judge to appoint Guardians of Minors above 14 in Case.

Provided nevertheless, That when any Minor above the Age of fourteen Years, living more than ten Miles from the Judge's Dwelling House shall chuse a Guardian, such Minor may have that Choice certified to the Judge by any Justice of the Peace in the same County, or by the Town Clerk, if no Justice shall dwell in such Town, which Choice shall be deemed as good and valid in the Law, as if done in said Judge's Presence.

Proviso in Case a Minor lives more than ten Miles from the Judge.

And be it further enacted, That when any Person shall be cited to appear as a Witness before any Judge of Probate in any Cause or Hearing, and such Person shall refuse to appear or to give Evidence, he shall be liable

Judge to cite Witnesses.

[Y]

to

How to proceed in Case of Contempt.

to the like Penalty or Damage as he would be liable to for refusing to appear or give Evidence in any of his Majesty's Courts within this Province: And all Sheriffs, Deputy-Sheriffs and Constables, are hereby required duly to serve all legal Warrants or Summons to them directed by any Judge of Probate; and all Contempt of Authority in any Cause or Hearing before any Judge of Probate, shall and may be punished in like Manner as such Contempt of Authority in any of his Majesty's Courts within this Province might or could by Law be punished.

Limitation.

This Act to continue and be in Force for the Space of three Years from the Publication thereof, and no longer.

Reviv'd and Continu'd till June 10. 1766.

CHAP. II.

An Act for the more easy Partition of Lands or other Real Estate given by Will, and held in common and undivided among the Devisees.

Preamble.

WHEREAS it is usual for Persons by their last Wills to devise their Real Estates to sundry of their Children or others, to be divided to and amongst them in some certain Proportion, a Division whereof cannot be obtained by the Act of the Parties, by Reason of their Disagreement or some legal Incapacity that some of them are under, and other Methods for obtaining such Partition are attended with Charge, Delay, and other Inconveniencies, to the Prejudice of such Estate:

For Remedy whereof,

The Judge of Probate empowered to divide Real Estates given by Will.

Be it enacted by the Lieutenant Governor, Council and House of Representatives, That when and so often as any Devisee (or his Guardian) who holds any Real Estate in Partnership with any other Person or Persons by Force of any last Will and Testament, shall make Application to the Judge of Probate of Wills, &c. in the County where such Estates lie, for a Division thereof, it shall and may be lawful for such Judge of Probate to order the whole of the Real Estate so devised (or that Part of it the Partition whereof is requested) to be divided to and amongst the Devisees in Proportion according to the Will of the Testator, by five good and discreet Freeholders of the same County, to be appointed by the Judge of Probate, and to be sworn to the due Performance of that Service by the said Judge, or by a Justice of the Peace of the same County, in Case the Estate to be divided be not within ten Miles from the dwelling-House of the said Judge; Notice being first given to all Parties concerned to be present at the making of such Partition, if they see Cause; which Partition or Division being returned into the Probate-Office, and approved by the Judge, and there recorded, shall be valid in the Law to all Intents and Purposes, unless upon the Appeal of any Party aggrieved at the Partition so made, the same should be reversed or altered by the Governor and Council.

Preamble.

And whereas it sometimes happens that Real Estates devised by Will lie in Common and Undivided with other Real Estate, and in order to a just

Preventing Riots, Bonfires, &c.

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just and more convenient Partition or Division of the Real Estate so devised, it may be deemed necessary that Partition or Division should be first made between the Estate so devised, and the other Estate lying in common therewith :

Be it further enacted, That in every such Case it shall and may be lawful for the Judge of Probate of Wills, &c. in the County where such Estate lies to empower the five Freeholders appointed as aforesaid, first to make Partition or Division between the Lands or other Real Estate given by Will and any other Lands or Real Estate lying in common therewith, Notice being first given to all Parties as above directed ; and the Charge of the Division of any Estate by Virtue of this Act, such Charge being first settled and allowed by the Judge, shall be born by the several Persons interested in Proportion to their respective Interests therein.

Division to be made where Lands lie in common.

Provided, That no Partition shall be made where the Proportion belonging to the Devisees, or any of them, shall appear by the Tenor of the Devise to be disputable and uncertain. Provided also, That where any of the Persons interested are Minors, or out of the Province, Guardians be first appointed for such Minors according to Law, and some discreet and indifferent Person be appointed by said Judge, to represent and act for such absent Party, who shall be allowed twelve Months to appeal to the Governor and Council from such Judgment.

Proviso in disputable Cases

Guardians to be appointed for Minors out of the Province.

This Act to continue and be in Force for the Term of ten Years, and no longer.

Limitation.

Reviv'd and Continu'd till July 1. 1770.

C H A P. III.

An Act for further preventing all riotous, tumultuous and disorderly Assemblies or Companies of Persons, and for preventing Bonfires in any of the Streets or Lanes within any of the Towns of this Province.

WHEREAS many and great Disorders have of late Years been committed by tumultuous Companies of Men, Children and Negroes, carrying about with them Pageants and other Shews through the Streets and Lanes of the Town of Boston, and other Towns within this Province, abusing and insulting the Inhabitants, and demanding and exacting Money by Menaces and abusive Language, and besides the horrid Profaneness, Impiety and other gross Immoralities usually found in such Companies, a Person has lately been killed when orderly walking in the Streets of the Town of Boston, by one or more belonging to such tumultuous Company ; and the aforesaid Practices have been found by Experience to encourage and cultivate a mobbish Temper and Spirit in many of the Inhabitants, and an Opposition to all Government and Order :

Preamble.

Be

Persons disguised to go about with Pageants & arm'd with any Weapons, exacting Money, &c.

To be punished by Fine or Imprisonment

Negroes, &c. may be punished by Whipping.

Persons carrying Pageants, &c. in the Night, tho' unarmed, to be punished.

Bonfires in Streets or Lanes forbidden.

Penalty.

Masters and Parents liable for their Servants and Children.

Limitation.

Be it therefore enacted by the Lieutenant Governor, Council and House of Representatives, That if any Persons being more than three in Number, and being arm'd all or any of them with Sticks, Clubs or any Kind of Weapons, or disguised with Vizards (so called) or painted or discoloured Faces, or being in any other Manner disguised, shall assemble together, having any Imagery or Pageantry with them as a public Shew, in any of the Streets or Lanes of the Town of Boston, or any other Town within this Province, or if any Person or Persons being of or belonging to any Company, having any Kind of Imagery or Pageantry for a publick Shew, shall by Menaces or otherwise exact, require, demand or ask any Money or other Thing of Value from any of the Inhabitants or other Persons in the Streets, Lanes or Houses of any Town within this Province, every Person being of or assembled with such Company, shall for each Offence forfeit and pay the Sum of forty Shillings, or suffer Imprisonment not exceeding one Month; or if the Offender shall be a Negro Servant, in Lieu of the Imprisonment, he may be whipped not exceeding ten Stripes at the Discretion of the Justice before whom the Trial shall be.

And be it further enacted, That if any Persons to the Number of three or more, between Sun-setting and Sun-rising, being assembled together in any of the Streets or Lanes of any Town within this Province, shall have any Kind of Imagery or Pageantry for a publick Shew, altho' none of the Company so assembled shall be arm'd or disguised, or exact, demand or ask any Money or Thing of Value, every Person being of such Company shall forfeit and pay the Sum of forty Shillings, or suffer Imprisonment not exceeding one Month, or if the Offender shall be a Negro Servant, in Lieu of the Imprisonment he may be whip'd not exceeding ten Stripes, at the Discretion of the Justice before whom the Trial shall be.

And whereas Bonfires have been sometimes kindled in the Streets, Lanes and other Parts of several of the Towns of this Province, to the endangering the Lives and Estates of the Inhabitants :

Be it further enacted, That if any Person or Persons shall set Fire to any Pile, or any combustible Stuff, or be any Ways concerned in causing or making a Bonfire in any Street, Lane or any other Part of any Town within this Province, such Bonfire being within ten Rods of any House or Building, every Person so offending shall for each Offence forfeit the Sum of forty Shillings, or suffer Imprisonment not exceeding one Month, or if the Offender shall be a Negro Servant, in Lieu of the Imprisonment, he may be whip'd not exceeding ten Stripes, at the Discretion of the Justice before whom the Trial shall be : The several Fines in this Act to be applied when recovered one Half to the Poor of the Town where the Offence shall be committed, and the other Half to him or them that shall inform and sue for the same : And all Masters are hereby made liable to the Payment of the several Fines as aforesaid, for the Offences of their Servants, and all Parents for the Offences of their Children under Age not being Servants.

This Act to continue and be in Force for three Years from the Publication thereof, and to the End of the Session of this Court then next after, and no longer.

Reviv'd and Continu'd 'till July 1. 1770.

CHAP.

C H A P. IV.

An Act for preventing Damage by Horſes going at Large.

BE it enacted by the Lieutenant Governor, Council and Houſe of Representatives, That all Horſes and Horſe-Kind (of one Year old and upwards) that ſhall be ſuffered to go at Large, ſhall be conſtantly fetter'd, with a ſufficient Pair of Fetters, from the firſt Day of *April* to the laſt Day of *November*; and the Owner of any ſuch Horſe or Horſe-Kind that ſhall be found going at Large on the Commons or Ways in any Town within this Province, not being ſufficiently fetter'd ſhall forfeit and pay the Sum of *three Shillings*, to be recovered by Action before a Juſtice of the Peace in the ſame County, and to be applied one Moiety thereof to the Uſe of the Poor of the Town where ſuch Owner dwells, the other Moiety to him or them that ſhall ſue for the ſame.

Horſe-Kind
not to go at
Large with-
out Fetters.

Penalty.

Provided nevertheleſs, That it ſhall be in the Power of any Town legally aſſembled for that Purpoſe, to give Liberty for Horſes going at Large without Fetters within the Bounds of ſuch Town, or within ſuch Part or Diviſion of the Town, from the firſt Day of *April* to the laſt Day of *November*, as ſhall be agreed on by the Inhabitants at ſuch Meeting.

Proviſo.

And be it further enacted, That when the Owner of any Horſe Kind, going at Large without being fetter'd, as by this Act is required, is unknown, in ſuch Caſe the Party finding ſuch Horſe or Horſe-Kind, may impound them, and otherwiſe proceed with them as the Law directs in Caſe of Strays.

When ſuch
Horſes are to
be impound-
ed.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and no longer.

Limitation.

Reviv'd and Continu'd till July 1. 1770.

[*The four foregoing Acts were Published January 6. 1753.*]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and Held at *Boston* in the County of *Suffolk*, upon Wednesday the thirtieth Day of *May* 1753.

C H A P. V.

An Act to prevent firing the Woods.

Preamble.

WHEREAS it is found by Experience that the burning of the Woods does greatly impoverish Lands, prevent the Growth of Wood, and destroy much Fence, to the great Detriment of the Owners:

For the Prevention whereof for the future :

Penalty for firing Woods.

Method of Prosecution.

Be it enacted by the Lieutenant Governor, Council and House of Representatives, That from and after the Publication of this Act no Person or Persons shall wittingly and willingly set Fire in any Woods or Land lying in common within the Bounds of any Town, without Leave first had from the Town or Proprietors respectively, (Owners of such Land lying in common,) by a major Vote at a Meeting for that Purpose appointed, under the Penalty of *forty Shillings*, to be recovered by Action or Information before any Justice of the Peace in the County where the Offence is committed, such Penalty to be for the Use of the Person or Persons who shall prosecute or sue for the same; and the Party offending shall be further liable to the Action of the Town, Proprietors, or particular Persons, damaged by such Fire: And in Case such Fire shall be set or kindled by any Person under Age, such Penalty shall be recovered of the Parent or Master respectively of such Person under Age, unless it shall appear such Person under Age was employed or directed by some Person other than the Parent or Master, in which Case the Person so employing or directing, shall be liable thereunto.

Lawful for Towns or Proprietors of Lands to set Fire to their own Lands.

And be it further enacted, That it shall and may be lawful for any Town or Proprietors of any such Lands as aforesaid, to give Order for the setting Fire in the Lands to them respectively belonging, and to chuse two or more Persons for that Service, who shall appoint Times for that Purpose, and give seasonable Notice thereof in the Town where such Lands lie, and to the Select-Men of such adjacent Town near the Borders whereof the Woods may be that are to be set on Fire as aforesaid.

And in as much as it is oft-times impossible to prove such Facts by direct Testimonies :

Be

Be it further enacted, That upon Procefs brought for setting Fire as aforefaid, where Proof cannot be made in the ordinary Method and Courfe of the Law, if the Plaintiff, Complainant or other credible Person, shall Swear that Fire has been kindled as is declared in the Writ, and there does appear fuch Circumftances as fhall render it highly probable in the Judgment of the Court or Juftice before whom the Trial is, that the Fire was kindled by the Defendant, his Child or Servant, or by fome other Child or Person under the Age of fourteen Years directed or employed by the Defendant for that Purpofe, then and in fuch Cafe, unlefs the Person charged (being of the Age of fourteen Years or upwards) will acquit himfelf upon Oath adminiftred to him by the Court or Juftice before whom the Trial is, the Plaintiff or Complainant fhall recover againft the Defendant the Penalty by this Act impofed, and Cofts; but if the Defendant fhall acquit himfelf upon Oath as aforefaid, Judgment fhall be entred up for the Defendant his Cofts againft the Plaintiff.

Method of
Profe-
cution
when Chil-
dren &c. fire
the Woods.

And be it further enacted, That from and after the Publication of this Act, every Person who fhall wittingly and willingly fet on Fire any Wood-Lands lying in common within the Bounds of any new Plantation in this Province, or any Wood-Lands brought into Severalty (other than his own) lying either in the Bounds of any Town or new Plantation open and unclofed, or any Wood-Lands belonging to any particular Person or Persons not within the Bounds of any Town or new Plantation, or any Part of the unappropriated Wood-Lands belonging to and within the Bounds of this Province, without Leave firft had and obtained from thofe who have Right to give the fame, fhall forfeit the Sum of *forty Shillings*, to be recovered with full Cofts of Suit, by any Person who fhall fue for the fame, in the fame Manner, and to the fame Ufe, and the fame Method of Proof fhall be allowed, as is provided in this Act.

Penalty for
firing Lands
lying in com-
mon.

And be it further enacted, That the Penalty given by this Act againft firing Woods, fhall be likewise recovered by Prefentment of the Grand Jury; and on the Trial of any Prefentment of any Offence againft this Act, the fame Proof and Evidence fhall be fufficient to convict the Person prefented, as is made fufficient in Cafe of private Suit for the Penalty. And all Forfeitures and Penalties that fhall be recovered by Prefentment of the Grand Jury by Virtue of this Act, fhall be to his Majefty, his Heirs and Succeffors to and for the Ufe of this Government.

Penalty may
be recovered
by Grand Jury
and fhall be to
the Province.

Provided always, That no Person fhall be obliged to pay any of the abovefaid Forfeitures or Penalties for the fame Offence, on Prefentment of the Grand Jury, and on private and perfonal Action both, but one Recovery in either of faid Methods fhall be a final Bar to any after Charge or Profe- cution in the other, for the fame Penalty.

One Recovery
of a Forfeiture
fhall bar any
after Trial.

And be it further enacted, That in all perfonal Actions brought for the Recovery of Damages fufained by any Person or Persons by Means of fetting on Fire any Wood or Wood-Lands to whomfoever the fame may belong, whether it lie in Common or Severalty, inclos'd or not inclos'd, the above-mentioned Evidence and Method of Proof fhall be allowed and adjudged fufficient for the Plaintiff to maintain his Action and recover his Damages upon againft the Defendant.

Method of
Evidence.

This Act to continue and be in Force for the Space of ten Years from the Publication thereof, and no longer.

Reviv'd and Continu'd 'till July 1. 1770.

[*The foregoing Act was Publifh'd June 23. 1753.*]

ACTS

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, in the County of *Suffolk*, upon Wednesday the thirtieth Day of *May* 1753, and continued by Prorogations to Wednesday the fifth Day of *September* following, and then met.

C H A P. I.

An Act to impower the Proprietors of the Meeting-House in the first Parish in *Salem*, where the Reverend Mr. *Dudley Leavitt* now officiates, to raise Money, to defrey Ministerial and other necessary Charges.

Preamble.

WHEREAS the raising of Money for defreying Ministerial Charges, in the first Parish in *Salem*, by an Assessment or Tax on Polls and Estates in said Parish, is, under its present Circumstances, attended with many Difficulties and Inconveniencies:

Proprietors of
Mr. *Dudley*
Leavitt's
Meeting-
House to lay
Taxes on
Pews, &c.

Be it therefore enacted by the Governor, Council and House of Representatives, That the Proprietors of the Meeting-House in said first Parish in *Salem*, in which the Reverend Mr. *Dudley Leavitt* officiates, be and hereby are allowed and impowered to raise by an Assessment or Tax on the Pews in said Meeting-House, such Sum or Sums as shall be agreed upon by the Proprietors, or the major Part of such of them as shall be assembled at any legal Meeting called for that Purpose, for the defreying the Ministerial and other incidental Charges: The first Meeting of such Proprietors to be called agreeable to the Direction of the Act made and passed in the eighth and ninth Years of his present Majesty's Reign, Intituled *An Act directing how Meetings of Proprietors in Wharves or other Real Estates besides Lands may be called*.

And to the Intent that such Tax or Assessment may be equitably made and duly collected:

Pews to be
valued and
assessed.

Be it further enacted, That the Proprietors of the said Meeting-House be and hereby are impowered to cause the Pews in the said Meeting-House, to be valued according to the Convenience of said Pews and their Situation, and to put a new Estimate on the Pews from Time to Time as shall be found necessary, and to determine how much each Pew or Part of a Pew shall pay towards defreying the Charges aforesaid, and the Time and Manner in which the same shall be paid, and appoint a Collector or Collectors

to collect the Sum or Sums so agreed to be rais'd, who shall be sworn to the faithful Discharge of his or their said Trust: And if any Proprietor or Owner of a Pew in the said Meeting-House shall neglect or refuse to pay the Sum or Sums assessed thereon, after having twenty Days Notice thereof given him by the Collector or Collectors, the Proprietors of the said Meeting-House shall be and hereby are empowered by themselves or by their Committee, to sell or dispose of the Pew of such Delinquent, according to the Valuation thereof as aforesaid; and with the Money rais'd by such Sale to pay the Assessment or Tax on said Pew remaining unpaid, together with the Charges arising on the Sale; the Overplus, if any there be, to be returned to the Owner thereof.

Collectors to be appointed.

Provided nevertheless, That when the Owner of any Pew shall make a Tender of the same to the Proprietors or to their Committee at the Valuation aforesaid, and they shall refuse or neglect to accept the same, no Sum shall be deducted out of the Sale of said Pew, but such only as shall have become due before the making of such Tender.

Pews to be sold in Case.

This Act to continue, and be in Force for the Space of three Years from the Publication of the same, and no longer.

Limitation.

Continu'd to July 1. 1767.

[*The foregoing Act was Publish'd September 22. 1753.*]

An Act

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* in the County of *Suffolk*, upon the thirtieth Day of *May* 1753, and from thence continued by Prorogations, to Tuesday the fourth Day of *December*, 1753.

CHAP II.

An Act in Addition to the several Laws of this Government made for the regulating General Fields.

WHEREAS by Law the Fence Viewers chosen in the several Towns within this Province are obliged to view defective and insufficient Fence, in Case Complaint be made to them, and the Person complaining pay them three Shillings per Diem, and for a less Time six Pence an Hour; and upon the Fence Viewers finding the Fence defective, he is obliged to notify the Owner thereof, who hath six Days by Law allowed him to repair the same, which if he sufficiently repair within said Term, the Complainant who hath paid the Fence Viewers for viewing the same, cannot recover the Money by him so paid:

Preamble.

[A a]

For

For Remedy whereof;

Be it enacted by the Governor, Council and House of Representatives,

Complainant That each and every Fence Viewer within this Province, and that hereafter
not to pay the may be chosen into said Office, shall be obliged (upon Complaint made to
Fence Viewer him) to view any insufficient Fences without the Complainant's first paying
before he him therefor, and in Case the Owner of such insufficient Fence neglect or
views. refuse to pay him the Fee allowed by Law for viewing such Fence, for the
Space of one Month, he shall have and recover of the Owner of said Fence
Owner of the double the Sum allowed by Law for that Service; but in Case the Fence
Fence to pay double Fees complained of appear to the Fence Viewer to be sufficient, that then the
in Case. Person complaining shall pay the like Fee to the Fence Viewer.

Preamble.

And whereas it often happens that Horses, Cattle and other Creatures
are found Damage Feasant in general Fields, which are either clandestinely
turned in, or are so unruly as to get in where the Fence is sufficient and ac-
cording to Law, and when impounded the Owners thereof will relieve the
same, because there may be some defect in the Fence encompassing such gene-
ral Field, though the same may be at a great Distance from the Place
where such Creatures actually got into the Field, and Judgment recovered
against the Person impounding, which may be very unjust and unreasonable:

Therefore,

Creatures to
be impounded
unless the
Fence be prov
ed insufficient

Be it further enacted, That when and so often as any Creatures are taken
in any general Field and Impounded, and a Writ of Replevin is taken out
to relieve the same, the Court or Justice before whom the Action is brought,
shall be and hereby is empowered to give Judgment against the Owner of
said Creatures, unless by such Owner it be made to appear they got into
the Field where the Fence was insufficient at the Time of their getting in,
or were put in by some other Person.

Preamble.

And whereas it often happens in fencing general Fields for the Conveniency
of fencing, considerable Quantities of rocky and barren Land, not capable
of Tillage, are taken into such Fields, the Owners of which are now by
Law obliged to Fence for the same, and also pay Taxes equal to the other
Lands in said Field, whenever an Assessment is made by the Proprietors of
such Field; which is very unjust.

Therefore,

Owners of
rocky unim-
proved Land
to pay for no
Part of the
general Fence.

Be it further enacted, That all Lands now lying in general Fields, or
that hereafter may be taken into the same, that are so rocky or barren that
the Owners thereof have never improved the same, either by mowing, plow-
ing or feeding, said Owners shall not be obliged to Fence for them any
Part of the Fence encompassing such general Fields, nor shall they be taxed
for them in any Rate raised by the Proprietors of such Field, until such
Time as they shall make Improvement thereon.

Limitation.

This Act to continue and be in Force three Years from the first Day of
February next, and no longer.

Continued to July 1. 1770.

[The foregoing Act was Published January 26. 1754.]

An

An Act,
 Passed by the Great and General Court or Assembly of
 His Majesty's Province of the *Massachusetts-Bay* in
New-England: Begun and Held at *Boston*, in the
 County of *Suffolk*, upon the thirtieth Day of *May*
 1753, and continued by Prorogations to Wednesday
 the twenty-seventh Day of *March* following, and
 then met.

CHAP. III.

An Act to prevent Neat Cattle and Horses running at
 large and feeding on the Beaches and Meadows be-
 low the Banks in the Town of *Truro* from the House
 of *Joshua Atkins* to *Bound Brook*, and also on the
 Common Meadow at and about *Pamit Harbour* and
 River as far up as the *Wading-Place* by *John Lum-*
barts.

WHEREAS there are certain Meadow Lands within the Town-
 ship of *Truro* in the County of *Barnstable* called *Pamit-Meadows*,
 on which many of the Inhabitants of said Town depend for their
 Hay, and the said Meadow Land lies adjoining to sandy Beaches
 next the Sea, on which no Fence can well be made to stand, and by Rea-
 son of Cattle and Horses trampling and feeding there, the Beach Grass
 which was wont to prevent the driving of the Sand from the Beaches to
 the Meadows, is destroyed, and a great Part of the Meadows already co-
 vered with Sand and become useless for Grass, and the whole in Danger
 of being buried with the Sands, if not timely prevented:

Preamble.

Be it therefore enacted by the Governor, Council and House of Repre-
 sentatives, That no Person shall presume to turn or drive any Neat Cat-
 tle or Horses upon the said Beaches or Meadows to feed, or leave them at
 large there, on the Penalty of five Shillings a Head for all Neat Cattle, and
 for every Horse-kind so turned upon any of the said Beaches or Meadows
 to feed, or that shall be found at large there; which Penalty may be reco-
 vered by any of the Proprietors of said Beaches or Meadows, one Moiety
 thereof to be to the Informer that shall sue for the same, and the other Moiety
 to be to and for the Use of the Poor of the Town of *Truro*.

No Person to
 turn or drive
 any Cattle on
 the Beaches
 &c. of *Truro*.

And be it further enacted, That it shall be lawful for any Owner or
 Proprietor of the said Meadows or Beaches, or other Person finding any
 Cattle or Horse-kind feeding or going at large upon the Beaches or Mea-
 dows aforesaid, or any of them, to impound the same; and the Person or
 Persons impounding them shall give publick Notice thereof in the Town of
Truro,

Cattle found
 feeding on the
 Beaches afore-
 said to be im-
 pounded &c.

Truro, and in the two next adjoining Towns, and shall relieve said Creatures whilst impounded with suitable Meat and Water; and the Owner thereof appearing, he shall pay to the Impounder *one Shilling and six Pence* Damages for each Head of Neat Cattle or Horse-kind so impounded, and Cost of impounding them; and if the Owner do not appear within the Space of six Days and pay the Damage and Costs occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle or Horse-kind, shall cause them to be sold at publick Vendue for paying such Damages and Costs, and the Charge arising by such Sale (public Notice of the Time and Place of such Sale being given forty eight Hours before-Hand) and the Overplus (if any be) to be returned to the Owner of such Cattle or Horse-kind (on his Demand) at any Time within twelve Months next after the Sale; and if no Owner shall appear within the said twelve Months, then one Moiety of the Overplus shall be to the Party impounding, and the other Moiety thereof to the Use of the Poor of the Town of *Truro*.

Limitation.

This Act to continue and be in Force for the Space of three Years from the first Day of *June* next, and no longer.

Reviv'd and Continu'd 'till July 1. 1770.

[The foregoing Act was Published April 24. 1754.]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, in the County of *Suffolk*, upon Wednesday the twentieth Day of *May* 1754, and continued by Adjournment to Thursday the seventeenth Day of *October* following.

CHAP. I.

An Act for the securing the Growth and Increase of a certain Parcel of Wood and Timber in the Townships of *Ipswich* and *Wenham* in the County of *Essex*.

Preamble.

WHEREAS there is a large Tract or Parcel of Wood Land lying in the Townships of *Ipswich* and *Wenham*, commonly known by the Name of *Wenham Great Swamp*, bounded Easterly by a Brook and a Pond known by the Name of *Pleasant-Pond-Brook*; Southerly on Land belonging to adjacent Proprietors, Westerly on a Meadow and some Swamp, known by the Name of *Wenham-Great-Meadows*; Northerly on the Meadow known by the Name of *Saltonstall-Meadows*, to the Brook first mentioned: And

Timber in Ipswich and Wenham.

93

And whereas it would be of great Advantage to said Towns, as well as to the particular Owners of said Wood and Timber, that the Growth thereof should be preserved from Feeding and Browzing of Cattle and Sheep, which are frequently turned and kept there in considerable Numbers; and the Laws already in Force for embodying Proprietors of common Fields not reaching this Case, there needs a further Provision:

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the fifteenth Day of January Instant, it shall and may be lawful for any five of the Proprietors of said Wood Land to apply to a Justice of the Peace within the same County, setting forth in Writing under their Hands, the intended Bounds by which they would circumscribe their proposed Propriety, together with their Intentions of Incorporation for the Purpose aforesaid, with the Time and Place of their intended Meeting, on which Application the Justice shall make out his Warrant to one of the principal Proprietors so applying, to notify the said Owners and Proprietors to assemble and meet, by posting up a Notification for that End, in one publick Place in said Wenham, and also in the third Parish in said Town of Ipswich, twenty Days at least before the Time of said Meeting, at which Time and Place it shall be lawful for the said Proprietors to meet, and chuse a Moderator and Clerk; and if two-thirds of the whole Proprietors (to be reckoned by their Interest) shall see meet, they may by Vote incorporate themselves into one Body, in which the whole Proprietors owning Lands within the Limits aforesaid shall be included, and may at said Meeting agree upon some proper Methods for calling Proprietors Meetings for the future; and the said Proprietors so incorporated, shall have and enjoy all the Powers and Privileges for the ordering and managing the Affairs of said Wood Land for the Preservation and Interest thereof, as fully and amply to all Intents and Purposes as any Proprietors of common and general Fields already embodied do or may enjoy by the Laws of this Province already in Force. The said proposed Proprietors observing the same Rules and Methods in ordering and managing their whole Affairs in all Respects as the Laws have provided in Cases of Common or General Fields.

Proprietors of said Wood-Land on Application to a Justice may have a Warrant for a Meeting, &c.

Rules to be observed by the Proprietors.

This Act to continue and be in Force for the Space of ten Years from the Publication thereof, and no longer. Limitation.

[The foregoing Act was Published January 13. 1755.]

[B b]

An

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-ninth Day of *May* 1754, and continued by sundry Prorogations unto Tuesday the twenty-fifth Day of *March* following.

C H A P. II.

An Act for appointing Assayers of Pot-ash and Pearl-ash.

Preamble.

WHEREAS Pot-ash and Pearl-ash imported into Great-Britain, (from Russia, and other foreign Parts) are there used in great Quantities; for the Purchase whereof, large Sums of Money are annually expended, and carried out of the Nation and paid to Foreigners: And whereas it hath been found by Experience that those Commodities can be made within this Province, not inferiour to the best that is manufactured in foreign Parts, and if here made in large Quantities, and in the best Manner fit for Transportation, would be of no small Advantage as well to our Mother Country, as to the Mercantile and Landed Interest of the Province: Provided none but what is good and merchantable, should be allowed to be shipped off, and such as from the Excellency of its Quality may obtain a free Vent: And as the prohibiting the Exportation of such of those Commodities as are deficient, (or wanting in that Degree of Goodness and Perfection) can no way prejudice the Persons already engaged in that Business, who may be less skilful therein; inasmuch as the Method of Proceedure in making Pearl and Pot-ash of the most perfect Kind, will soon be communicated to the Publick for the Instruction of all Persons already engaged, or that shall be inclined to engage, in that Manufacture: And as such Prohibition will be an effectual Mean to preserve and secure the Credit of our own Produce, and to defeat any Attempts of Persons Abroad, whose private Interest may induce them to unite their Endeavours to discourage that Manufacture here, by undervaluing and decrying in the Markets at Home, what shall be transported thither from this Province:

No Pot-ash or Pearl-ash to be exported 'till it has pass'd an Assay.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the first Day of July next, no Pot-ash or Pearl-ash made within this Province, shall be ship'd or exported but such as shall have been assayed, and found to be of sufficient Strength and Purity, and to have those Qualities in such Degree of Perfection, as shall be ascertained and fixed by this Court, (or such fit Persons as shall be appointed and authorized for that Purpose) as the Standard of such Pot-ash and Pearl-ash as shall be deemed merchantable and fit for Exportation.

Assay Master to be appointed and sworn.

And be it further enacted, That some skilful and disinterested Person or Persons (to be appointed by this Court in such Sea-Port Towns within this Province

Province where there shall be Occasion) be Assay-Masters for the proving and assaying of Pot-ash and Pearl-ash, who shall be sworn to the due and impartial Execution of their Trust; and their Duty shall be (when desired) to inspect and assay all Pot-ash and Pearl-ash that shall be brought to any such Sea-Port Town to be shipped; and every such Assay-Master is hereby authorized to open the Casks or Vessels containing those Commodities, and to take out so much thereof for Trial, as may probably discover the Condition of the whole, (he returning the same to the Owner after Trial made thereof) and every Cask or other Vessel of Pearl or Pot-ash, which by such Assay shall appear to be good and merchantable, according to the Rule or Standard that shall be established as aforesaid, he shall mark or imprint with some distinguishing Mark or Brand (to be appointed by the Governor and Council) to denote that the same has been assayed and approved.

And be it further enacted, That if the Owner of any Pearl or Pot-ash, or other Person employed by him shall presume to lade or put on Board any Vessel any Pot-ash or Pearl-ash, other than such as shall have been approved by an Assay-Master, or shall be contained in any Cask that shall not have his Mark or Stamp upon it, or if any Master of a Ship or other Vessel, or other Officer or Mariner shall receive on Board any such, the Offender or Offenders shall incur the Penalty of *five Pounds* for each Cask or other Vessel so shipped, to be sued for and recovered in any of his Majesty's Courts of Record within this Province; and all such Pot-ash and Pearl-ash, (laded or received on Board as aforesaid) shall be forfeited, one Moiety of such Penalty and Forfeiture to be to his Majesty for the Use of this Province, the other Moiety to him or them that shall inform and sue for the same: And it shall be lawful for any Justice of the Peace, upon Information given of any Pot-ash or Pearl-ash put on board any Vessel as aforesaid, not mark'd as aforesaid, to issue his Warrant directed to the Water-Bailiff, or to the Sheriff or his Deputy or Constable, requiring them respectively to make Seizure of any such Pot-ash or Pearl-ash ship'd and not mark'd as aforesaid, and to secure the same in order to Trial; and such Officers are hereby respectively impowered and required to execute the same.

And be it further enacted, That if after any Cask or other Vessel of Pot-ash or Pearl-ash shall have been approv'd and stamp'd with the Assay-Masters Mark or Stamp, any Cooper or other Person shall presume to shift the Contents of such Cask or other Vessel, and to put therein either of those Commodities that have not been duly assayed and approved as aforesaid, such Cooper or other Person offending therein, shall forfeit and pay the Sum of *ten Pounds*, to be recovered and applied in Manner as aforesaid.

And be it further enacted, That the respective Assay-Masters, shall be paid for every Cask or other Vessel of either of the Commodities aforesaid, that he shall assay, the Sum of *two Shillings*, to be paid by the Owner; and if he refuse to satisfy the Officer for his Fees aforesaid, it shall be lawful for him to detain so much of the said Commodities as will make him Satisfaction for his Service; and if the Owner do not redeem the same within twenty-four Hours, he may then expose it to Sale, and out of the Proceeds may satisfy himself his Fees and Charges, returning the Overplus (if any be) to the Owner.

Penalty for shipping any Pot-ash or Pearl-ash not approved upon Assay.

Method of Proceeding against such Offenders.

Penalty for shifting the Pot-ash and Pearl-ash out of the mark'd Cask, &c.

Assay-Masters Fee &c.

How to be paid.

This

Limitation.

This Act to continue and be in Force from the first of *July* next, until the first Day of *July* One Thousand seven Hundred and Sixty, and no longer.

Reviv'd and Continu'd 'till January 30. 1771.

[*This Act was Published February 22. 1755.*]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-eighth Day of *May* 1755.

CHAP. III.

An Act to prevent Damage being done on the Beach, Humocks and Meadows belonging to the Town of *Scituate*, lying between the Southerly End of the *Third Cliff*, so called, and the Mouth of the *North-River*.

Preamble.

WHEREAS Persons frequently drive Numbers of Neat Cattle and Horses, and sometimes Sheep, if not restrained, to feed on the Beach, Humocks and Meadows of *Scituate*, lying between the third Cliff, and the Mouth of *North-River*, and oftentimes cut down Trees and Shrubs in said Humocks, and carry them away, whereby said Beach is broken, and the Land made loose, and by the Winds and Storms is drove on the said Meadows and Flats or Sedge Ground; and there is great Danger, if such Practices are not prevented, that the said Meadows and Sedge Ground will be utterly ruined, and the River greatly damnified:

Cattle found feeding on the Beaches aforesaid to be impounded.

Be it therefore enacted by the Governor, Council and House of Representatives, That if any Neat Cattle, Horse-Kind or Sheep, shall after the first Day of *July* next, be found feeding on said Beach, Humocks or Sedge Ground adjoining to said Beach, it shall and may be lawful for any Person to impound the same forthwith, giving Notice to the Owner or Owners, if known, otherwise to give publick Notice thereof by posting up Notifications in some publick Place in said Town of *Scituate*; and the Impounder shall relieve said Creatures with suitable Meat and Water while impounded; and if the Owner thereof appear, he shall pay to the Impounder one Shilling a Head for all Neat-Cattle and Horse-Kind, and two Pence for every Sheep, and also the reasonable Costs for relieving them; besides the lawful Fees to the Pound-Keeper: And if no Owner appear within three Days to redeem the said Creatures so impounded, and pay as aforesaid; then and in every such Case, the Person or Persons impounding such Creatures shall cause the same

Ipswich School.

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ſame to be ſold at publick Vendue, and pay the Penalties as aforeſaid, with all other Coſts and Charges ariſing about the ſame, publick Notice of the Time and Place of ſuch Sale being firſt given in the ſaid Town of *Scituate*, and the two next adjacent Towns, three ſeveral Days before Hand; and the Overplus, if any there be, ariſing by ſuch Sale, to be returned to the Owner or Owners of ſuch Creatures, if he or they appear within two Months next after ſuch Sale, upon his demanding the ſame; but if no Owner appears within ſaid two Months to demand the ſame, then the ſaid Overplus ſhall be one Half to the Perſon impounding, and the other Half to be returned to the Town Treafurer, for the Uſe of the Poor of the ſaid Town of *Scituate*.

To be ſold where the Owner does not appear.

Diſpoſal of the Produce.

And be it further enacted, That if any Perſon or Perſons ſhall preſume to cut down any Tree or Shrub ſtanding or growing on ſaid Beach or Humocks, without Leave or Licence firſt had and obtained of ſaid Town of *Scituate*, he or they ſo offending, ſhall forfeit and pay to the Uſe of ſaid Town the Sum of *twenty Shillings* for each Tree or Shrub ſo cut down; And all ſuch Methods and Proof ſhall be allowed in any Action to be brought by ſaid Town therefor, as is provided in an Act made in the twelfth Year of King *George* the firſt in Addition to an Act made for preventing of Treſpaſſes.

Penalty for cutting down Trees or Shrub.

This Act to be in Force for the Space of ten Years from the firſt Day of *July* next.

Limitation.

[The foregoing Act was Publiſh'd June 27. 1755.]

An Act

Paſſed by the Great and General Court or Aſſembly of His Maſteſty's Province of the *Maſſachuſetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-eighth Day of *May*, 1755. And continued by ſundry Prorogations and Adjournment to Wednesday the Fourteenth Day of *January* following, and then met.

C H A P. I.

An Act for regulating the Grammar School in *Ipswich*, and for incorporating certain Perſons to manage and direct the ſame.

WHEREAS divers piouslly diſpoſed Perſons in the firſt Settlement of the Town of *Ipswich*, within the County of *Essex*, granted and conveyed to Feoffees in Truſt, and to ſuch their Succeſſors in the ſame Truſt, as thoſe Feoffees ſhould appoint, to hold perpetual Succeſſion

Preamble.

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certain

certain Lands, Tenements and Annuities by them mentioned for the Use of School Learning in said Town forever; of which Feoffees the honourable Thomas Berry, Esq; Daniel Appleton, and Samuel Rogers, Esqrs; with Mr. Benjamin Crocker, are the only Survivors: And whereas the Town of Ipswich, did also in their laudable Concern for promoting Learning, about the same Time, and for the same Use, give and grant to certain Persons in said Grant mentioned, and to such others as the said Town should appoint; a large Farm then called a Neck of Land, situate in Chebacco in the same Town, with some other Lands adjoining; all which Farms and Lands were soon after leased out for the Space of one Thousand Years, the Rents to be applied to the uses of Learning in said Town as aforesaid: But as is apprehended by some, no Power was given by the said Town to their Trustees to appoint Successors in that Trust for receiving and applying the Rents, or of ordering and directing the Affairs of the School in said Town, as in the first mentioned Case is provided; from which Difference in the Original Constitution of those Grants, which were all designed for one and the same Use, considerable Disputes have already arisen between the said Town and the Feoffees; and not only so, but some Doubts are started whether it is in the Power of said Town or Feoffees to compel the Payments of the Rents of the Farm and adjoining Land beforementioned:

And inasmuch as the said Town of Ipswich, by their Vote of the twenty second Day of January One Thousand seven Hundred and fifty six, by and with the Consent of the aforementioned Feoffees have agreed to apply to this Court for Aid in the Manner in said Vote mentioned:

Wherefore,

Feoffees of
Ipswich
School ap-
pointed.

Their Power.

Be it enacted by the Governor, Council and House of Representatives, That from and after the first Day of March next, for and during the Space of ten Years, the afore-named Thomas Berry, Daniel Appleton, and Samuel Rogers, Esqrs; with Mr. Benjamin Crocker, the present surviving Feoffees on the Part of the private Persons granting Lands as aforesaid, together with Francis Choate, Esq; Capt. Nathaniel Tredwell, and Mr. John Patch, Junr. three of the present Select-Men of said Town, shall be and they are hereby incorporated a joint Committee or Feoffees in Trust, with full Power and Authority by a Majority of them to grant necessary Leases of any of said Land not prejudicial to any Lease already made, and not exceeding the Term of ten Years, to demand and receive the said Rents and Annuities, and if Need be, to sue for and recover the same; to appoint Grammar School-Masters from Year to Year and Time to Time, and agree for his Salary; to apply the Rents and Annuities for the Payment of his Salary, and other necessary Charges arising by said School; to appoint a Clerk and Treasurer, and if found necessary to impose some moderate Sum and Sums of Money to be paid by such Scholars as may attend said School, for making up and supplying any Deficiency that may happen in the yearly Income and Annuities of said Lands; for defraying the necessary Charges that may arise by said School, and enforce the Payment; to inspect said School and School-Master, and in general to transact and order all Matters and Things relative to said School, so as may best answer the original Intent and Design thereof.

And

And the ſaid Committee or Feoffees and their Succeſſors, ſhall at the Anniverſary Meeting of ſaid Town in *March* yearly during the Continuance of this Act, lay before ſaid Town a fair Account of their Proceedings relating to ſaid School for the Year then laſt paſt.

Account of Feoffees Proceedings to be laid before the Town annually.

And for the Continuance of the Succeſſion of the beforenamed Committee or Feoffees :

Be it enacted, That if either the ſaid *Thomas Berry, Daniel Appleton, Samuel Rogers,* or *Benjamin Crocker,* ſhall deceaſe or remove out of ſaid Town of *Ipswich,* or otherwiſe become incapable or unfit to diſcharge ſaid Truſt, it ſhall and may be lawful for the ſurviving and qualified Remainder of thoſe four Gentlemen, to appoint ſome other ſuitable Perſon or Perſons in his or their Room ſo deceaſing, removing or otherwiſe unqualified according to the original Intention of their firſt Appointment, ſo as to keep up the ſame Number of four Feoffees thus conſtituted, and no more ; and no Perſon to be appointed a Feoffee, but an Inhabitant of the Town of *Ipswich :* And the aforementioned Select-Men, ſhall from Year to Year be ſucceeded by the three oldeſt in that Office of the Select-Men of ſaid Town for the Time being, other than ſuch of them as may be alſo one of the aforeſaid Feoffees ; and in Caſe it ſhould at any Time happen that there is not three Select-Men choſen by ſaid Town that may have ſerved the Town before in that Office, the Deficiency ſhall be ſupplied by thoſe firſt named in the Choice of the Town.

Proviſion for the Succeſſion of ſaid Feoffees, &c.

And for rendring the whole more effectual :

Be it further enacted, That the aforeſaid Committee or Feoffees in Truſt, may in all Matters relative to ſaid Grammar-School in which they may by Force of this Act be concerned, ſue or be ſued by the Name or Character of the Feoffees of the Grammar-School of the Town of *Ipswich* in the County of *Effex :* And in this Power their Succeſſors ſhall be included with reſpect to the Tranſactions of thoſe that may have preceded them in ſaid Office.

Feoffees or Committee to ſue & be ſued.

This Act to continue and be in Force for the Space of ten Years, and no longer.

Limitation.

[*The foregoing Act was Publiſhed March 1. 1756.*]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* : Begun and Held at *Boston*, upon Wednesday the twenty-eighth Day of *May*, 1755. And continued by fundry Prorogations and Adjournments to Tuesday the thirtieth Day of *March* following, and then met.

CHAP. II.

An Act for preventing Petitions to the General Court relating to Licences for Retailing strong Drink, and keeping Houses of publick Entertainment.

Preamble.

WHEREAS Petitions have often been preferred to the Great and General Court, for enabling the Courts of General Sessions of the Peace to grant Licences to Inn-holders and Retailers of strong Drink, whereby the publick Affairs of the Province have been much interrupted, and the several Sessions of this Court protracted :

Therefore for preventing such Inconvenience for the future :

Court of Sessions to grant Licences if they think fit.

Be it enacted by the Governor, Council and House of Representatives, That upon Application made to the Court of General Sessions of the Peace in any County within this Province, at any of the Terms by Law appointed for holding the same in such County, for Licence to keep an Inn, Tavern or other House of publick Entertainment, or to Retail strong Liquors, the Justices of such Court are hereby authorized at such Term to grant such Licence, in Case they shall judge it necessary or of publick Convenience, and the Person applying therefor be suitably qualified for such Employment, and recommended in Manner as the Law directs ; and the House in which he is to exercise such Licence, be commodiously situated for the Entertainment of Travellers and other publick Uses.

Time for granting Licences.

Provided, That no such Licence be firstly or originally granted at any Time after the Term by Law appointed for granting of Licences in such County, nor to any Person who shall have applied for a Licence at such Term, and shall have been denied the same, (unless it shall evidently appear that the Cause of such Denial be then removed) ; nor shall any Licence be granted on any other Day of the Sitting of such Court, but that whereon the Justices of such County have been wont to give their more general Attendance.

And whereas the granting of Licences at any Term of such Court's Sitting, frequently and indiscriminately, and the countenancing any unreasonable Applications for them, may be attended with no small Inconvenience :

Be

Inlistment at Castle-William.

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Be it therefore further enacted, That no Person applying for such Licence at any other Term of such Court's Sitting, than that by Law assigned for granting Licences, shall be admitted thereto, who shall not pay and deliver into the Hands of the Clerk of such Court (besides the appointed Fee) the Sum of *twelve Shillings*, to be by such Clerk delivered to the Treasurer of such County for the County's Use; unless it shall appear to the Satisfaction of the Justices, that the Nature of the Case or Circumstances attending it, would not admit of an earlier Application, or that the Petitioner by some providential and unavoidable Lett or Hindrance was prevented doing it; in which Case no more shall be demanded than the appointed Fee.

Persons not applying for Licences at the Time appointed, to be excluded, unless.

This Act to commence on and from the twentieth Day of *April* Instant, and to continue in Force until the first Day of *April*, which will be in the Year of our Lord One Thousand seven Hundred and fifty-nine, and no longer.

Limitation.

Reviv'd and Continu'd 'till April 1. 1763.

[*The foregoing Act was Published April 8. 1756.*]

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May* 1756.

C H A P. III.

An Act for inlisting the Inhabitants of *Dorchester, Weymouth* and *Charlestown*, into his Majesty's Service for the Defence of *Castle-William*, as Occasion shall require.

WHEREAS the Safety of this Province in a great Measure depends on the Strength of his Majesty's *Castle-William*, and it is necessary that a great Number of Men, skilful in the Management of the great Artillery, should be always ready to attend there:

Preamble.

Be it enacted by the Lieutenant-Governor, Council and House of Representatives, That all the Inhabitants of the Town of *Dorchester*, who are by Law subject to common Musters and Military Exercises, not exceeding sixty Years of Age, and such of the Inhabitants of the Towns of *Weymouth* and *Charlestown*, as are willing to be inlisted (not exceeding one Hundred and twenty in the whole) from the two last Towns, viz. sixty from *Charlestown*, and sixty from *Weymouth*, shall be inlisted under the present Captains,

Inhabitants of *Dorchester, Weymouth, and Charlestown*, for Military Exercises at *Castle-William*

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or

1756.

Anno Regni Regis GEORGII, II. Vicesimo Nono.

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Inlistment at Castle-William.

Their Duty there.

or such other Officers as the Captain-General or Commander in Chief shall Commissionate; Who shall repair to *Castle-William*, six Days in each Year, viz. three Days successively in the Month of *July* next, and three Days successively in the Month of *September* next, and from thenceforward during the Continuance of this Act three Days successively in the Month of *May*, and three Days successively in the Month of *September* annually, and shall on the said Days be by the Gunner and Quarter-Gunners, exercised in the mounting, dismounting, levelling, traversing and firing the great Guns, and shall be obliged hereunto, and to the Observance of such Orders as shall be given them in this Exercise, under the like Pains and Penalties that Soldiers are under to obey their Officers in said Castle in Time of Service.

Penalty for Neglect of Attendance.

And be it further enacted, That if any of the Men inlisted as aforesaid, shall not duly attend at Time and Place for the Exercise of the great Artillery as aforesaid, being thereof notified in Person, or by leaving a Notification in Writing at the usual Place of his Abode, at least four Days before the Time he is to appear, for every such Day's neglect of Attendance, such Soldier shall pay to the Clerk of the Company for the Use of the Company, ten Shillings.

Encouragement to inlist.

And for the Encouragement of the said Men that shall be inlisted and exercised as aforesaid :

Be it further enacted, That every Person so inlisted shall be excused from all other Military Service, and from all Impresses into other Service that other Soldiers by Law are liable to.

All Dorchester Inhabitants to attend armed at the Castle upon Alarms.

And be it further enacted, That upon any Alarm at *Castle-William*, every Man able of Body, as well those inlisted by Virtue of this Act, as also all others within the Town of *Dorchester*, except such Persons as are by Law obliged to attend upon the Governour for the Time being, shall forthwith appear compleat with their Arms and Ammunition according to Law at the said *Castle-William*, there to attend and observe such Commands as shall be given for his Majesty's Service; and that on the Penalty of paying five Pounds to the Clerk of the said Company for the Use of the Province; the aforesaid Fines to be recovered before any Justice of the Peace or Court proper to hear and try the same.

Limitation.

This Act to be in Force from the tenth Day of *June* Instant, to the tenth Day of *June* One Thousand seven Hundred and fifty-nine, and no longer.

Revis'd and Continu'd till July 1. 1770.

Acts

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-sixth Day of *May* 1756, and continued by sundry Prorogations, to the sixth Day of *January* following, and then met.

C H A P. I.

An Act for further regulating the Course of Judicial Proceedings.

WHEREAS Trials of Civil Actions upon Appeals and Reviews, Preamble.
have been unnecessarily multiplied, to the great Charge and Grievance of many of his Majesty's Subjects within this Province:

Be it therefore enacted by the Lieutenant Governor, Council and House of Representatives, That no Writ of Review shall hereafter be brought to any Inferiour Court of Common Pleas; and that whensoever in any Action that now is depending or shall hereafter be brought in any of the Courts within this Province, the Party whether Plaintiff or Defendant which shall have recovered Judgment on the first Trial, shall likewise recover on a second Trial; no Review shall be allowed in such Action.

This Act to continue and be in Force for five Years from the twenty-eighth Day of *January*, One Thousand seven Hundred and fifty-seven, and no longer. Limitation.

Reviv'd and Continu'd 'till July 1. 1767.

C H A P. II.

An Act to prevent Damage being done unto *Billingsgate-Bay* in the Town of *Eastham*, by Cattle and Horse-Kind and Sheep, feeding on the Beach and Islands adjoining thereto.

WHEREAS many Persons frequently drive Numbers of Neat Cattle Preamble.
Horse-Kind and Sheep, to feed upon the Beach and Islands adjoining to *Billingsgate-Bay*, whereby the Ground is much broken and dammified and the Sand blown into the Bay, to the great Damage not only of private Persons in their Employment of getting Oysters, but also to the Publick by filling up said Bay, which is often used by Seamen in Strefs of Weather;

Be

Horses, Cattle
and Sheep not
to feed on Bil-
lingsgate Beach
&c.

Penalty.

Cattle to be
impounded if
found feeding
on the Beach
&c.

Rules refer-
ring to such
impounded
Cattle.

Officers to be
chosen to put
this Act in
Execution.

Sam. Smith,
Esq; allowed
to feed a
Number of
Cattle there-
on.

Be it therefore enacted by the Lieutenant Governor, Council and House of Representatives, That from and after the Publication of this Act, no Person or Persons shall presume to turn or drive any Neat Cattle, or Horse-Kind or Sheep, to or upon the Islands or Beach lying Westerly of Billingsgate Bay, and South of Griffin's Island (so called) in the Town of Eastham to feed thereon, upon the Penalty of ten Shillings a Head for all Neat Cattle, and for every Horse or Mare, and one Shilling for each Sheep that shall be turned or found feeding on said Islands and Beach which lie South of Griffin Island; which Penalty shall be recovered by the Select-Men or Treasurer of the said Town of Eastham, or any other Person that shall inform and sue for the same, the one half of the said Forfeiture to him or them who shall inform and sue for the same, and the other half to be to and for the Use of the Poor of said Town.

And be it further enacted, That if any Neat Cattle or Horse-Kind or Sheep, shall at any Time hereafter be found feeding on the said Islands and Beach South of Griffin's Island, that it shall and may be lawful for any Person to Impound the same, immediately giving Notice to the Owners, if known, otherwise to give public Notice thereof in the said Town of Eastham, and the two next adjoining Towns; and the Impounder shall relieve the Creatures with suitable Meat and Water while impounded, and if the Owner thereof appear he shall pay the Sum of three Shillings to the Impounders, for each Neat Beast and Horse-Kind, and four Pence for each Sheep, and the reasonable Cost of relieving them besides the Pound-Keeper's Fees: And if no Owner appear within the Space of six Days to redeem the said Cattle or Horse-Kind or Sheep so impounded, and to pay the Damages and Costs occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle or Horse-Kind or Sheep, shall cause the same to be sold at publick Vendue, to pay the Cost and Charges arising about the same (public Notice of the Time and Place of such Sale to be given in the said Town of Eastham, and in the Town of Truro, forty-eight Hours beforehand) and the Overplus (if any there be) arising by such Sale, to be returned to the Owner of such Cattle or Horse-Kind or Sheep, at any Time within twelve Months next after, upon his demanding the same; but if no Owner appear within the said twelve Months, then the said Overplus shall be one half to the Party impounding, and the other half to the Use of the Poor of the said Town of Eastham.

And be it further enacted, That the said Town of Eastham at their Meeting in March annually for the Choice of Town Officers, be authorized and empowered to chuse one or more meet Person or Persons, whose Duty it shall be to see that this Act be observed, and prosecute the Breakers thereof, who shall be Sworn to the faithful Discharge of their Office; and in Case any Person or Persons so chosen shall refuse to be Sworn, he shall forfeit and pay three Pounds to the Poor of the said Town of Eastham, and the said Town of Eastham, at a Town Meeting warned for that Purpose, may at any Time before March next, chuse such Officers, who shall continue until their annual Meeting in March next.

And be it further enacted, That for and during the Term of ten Years, accounting from the first Day of April One Thousand seven Hundred and fifty-seven, it shall and may be lawful for Samuel Smith, Esq; his Heirs, Executors and Administrators, to feed on the Beach and Islands aforesaid, twelve Neat Cattle from the first Day of April, to the first Day of

of June, and eighteen Neat Cattle, from the said first of June, to the twentieth Day of November annually, and one Cow for the Use of the Family on said Island for and during the whole of the Term before-mentioned. And that the said Samuel Smith be empowered to Build at his own Expence a Pound on said Island, for impounding such Creatures as shall be found feeding on said Island other than by this Act is allowed, and that the Pound-Keeper or Pound-Keepers who shall be chosen pursuant to this Act, have the Care and Charge of the Pound, by this Act allowed to be erected on said Island as aforesaid; any Thing in this Act to the contrary notwithstanding.

Provided, That the said Samuel Smith, his Heirs, Executors or Administrators, shall and do make and maintain a good and sufficient Fence across the North Part of said Island, and into the Sea; and keep a House and Family on said Island during the Term aforesaid, and also make good all reasonable Damage that shall accrue to the Owners of the Meadow lying between said Island and Beach Hill.

And be it further enacted, That the said Town of Eastham at their Meeting in March annually, shall and may have Liberty to chuse one or more Person or Persons to inspect said Islands, and to add to or diminish said Number of Cattle feeding thereon, as they shall from Time to Time find necessary and most convenient for the Benefit of said Islands.

[The two foregoing Acts were Published February 28, 1757.]

An Act

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England: Begun and Held at Boston upon Wednesday the twenty-fifth Day of May, 1757.

CH A P. III.

An Act to prevent Damage being done on the Meadows and Beaches lying in the Township of Barnstable on the South Side of the Harbour, contiguous to the common Fields in said Town.

WHEREAS many Persons frequently drive Numbers of Neat-Cattle, Horses, Sheep and Swine, to feed upon the Beaches, Meadows and Shoars adjoining to the late common Fields in said Barnstable, between said Fields and the Harbour, whereby the Ground is much broken and damaged, and the Sand blown on said Meadows and Uplands adjoining, to the great Damage not only of private Persons in their Properties, but also to said Town in general, so far as relates to said Town's Meadows, appropriated to maintain a Pound:

[E e]

Be

Persons for-
bidden to
drive Cattle
on Meadows
and Beaches
in Barnstable.

Penalty.

Be it enacted by the Council and House of Representatives, That during the Continuance of this Act, no Person or Persons shall presume to turn or drive any Neat-Cattle or Horse Kind, or Sheep or Swine, to or upon any of the Beaches, Meadows or Shoars that lye between the late common Fields in said Barnstable, any where from Calves Pasture-Point to Yarmouth Line round as the Shoar goes, upon the Penalty of three Shillings a Head for Neat-Cattle or Horse-Kind, and one Shilling for each Sheep and Swine that shall be turned and found on said Beaches, Meadows or Shoars within the Limits aforesaid; which Penalty shall be recovered by the Select-Men or Treasurer of the said Town of Barnstable, or any other Person that shall inform and sue for the same; the one half of the said Forfeiture to him or them that shall inform and sue for the same, the other half to be to and for the Use of the Poor of the said Town.

Cattle to be
impounded,
in Case.

And be it further enacted, That if any Neat-Cattle or Horse-Kind, or Sheep or Swine, shall at any Time hereafter be found feeding on the said Beaches, Meadows or Shoars that lye between the late common Fields, and the Harbour in said Barnstable, any where from Calves Pasture-Point to Yarmouth Line round as the Shoar goes, that it shall and may be lawful for any Person to impound the same, immediately giving Notice to the Owners, if known, otherwise to give public Notice thereof in the said Town of Barnstable, and the two next adjoining Towns, and the Impounder shall relieve the said Creatures with suitable Meat and Water while impounded; and if the Owner thereof appear, he shall pay the Sum of one Shilling to the Impounder for each Neat-Beast and Horse-Kind, and four Pence for each Sheep and Swine, and the reasonable Cost of relieving them, besides the Pound-Keeper's Fees; and if no Owner appear within the Space of six Days to redeem the said Cattle or Horse-Kind, Sheep or Swine so impounded, and to pay the Costs and Damages occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle or Horse-Kind, Sheep or Swine, shall cause the same to be sold at public Vendue, and pay the Cost and Charges arising about the same, (public Notice of the Time and Place of such Sale to be given in the said Town of Barnstable, and in the Town of Yarmouth forty-eight Hours beforehand) and the Overplus (if any there be) arising by such Sale, to be returned to the Owner of such Cattle or Horse-Kind, Sheep or Swine, at any Time within twelve Months next after, upon his demanding the same; but if no Owner appear within the said twelve Months, then the said Overplus shall be one half to the Party impounding, and the other half to the Use of the Poor of the said Town of Barnstable.

Cattle to be
sold, in Case.

Officers to be
chosen to put
this Act in
Execution.

And be it further enacted, That the said Town of Barnstable, at their Meeting in March annually for the Choice of Town-Officers, be authorized and empowered to chuse one or more meet Person or Persons, whose Duty it shall be to see this Act observed, and to prosecute the Breakers thereof, and who shall be sworn to the faithful Discharge of their Office: And in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay five Shillings for the Use of the Poor of the said Town of Barnstable, and upon such Refusal said Town from Time to Time to proceed to a new Choice of such Officer or Officers; and the said Town of Barnstable at a Town-Meeting warned for that Purpose, may at any Time before March next, chuse such Officers, who shall continue until their annual Meeting in March next.

This

This Act to commence on the tenth Day of *June* next, and to continue and be in Force 'till the End of the Session of the General Court next following the twenty-fifth of *March* One Thousand seven Hundred and sixty-seven, and no longer. Limitation.

[This Act was Published June 17. 1757.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-fifth Day of *May*, 1757. And continued by Prerogations to the sixteenth Day of *August* following; and then met.

CHAP. I.

An Act in Addition to an Act, Intituled *An Act in Addition to the Act for providing of Pounds, &c.*

WHEREAS it has been found inconvenient for the Party damaged Preamble.
by any Creatures which have been impounded and apprized, to be obliged to keep them to his own Use at the apprized Value :

Be it therefore enacted by the Governor, Council and House of Representatives, That when any Creatures have been impounded and apprized, agreeable to the Directions of the afore-mentioned Act ; if the Person impounding don't see fit to take the said Creatures at the apprized Value, then they shall be sold at publick Outcry to the highest Bidder by the Person who caused the same to be impounded, Notice of the Time and Place of such Sale having been posted up in some publick Place in the Town in which they are impounded, four Days at least before the Sale; and the Overplus of the Money arising by such Sale (if any there be after necessary Charges are paid) shall be returned to the Owner. Creatures impounded and apprized may be sold at public Outcry

This Act to continue and be in Force for the Space of three Years from the first Day of *September* next, and no longer. Limitation.

Revised and Continued till January 30. 1771.

C H A P. II.

An Act to prevent Neat Cattle, Horses and Sheep running at large and feeding on the Beaches between *Wells* and *Ogunquit Harbours* in the Town of *Wells*, and to prevent the Mowing of the same.

Preamble.

WHEREAS there is a large Quantity of *Marish* within the Township of *Wells*, in the County of *York*, on which most of the Inhabitants of said Town depend for their Hay, and the said *Marish* lies adjoining to two long Sandy Beaches between *Wells* and *Ogunquit Harbours*, which is the only Barrier to prevent said *Marish* from being destroyed, and by Reason of Cattle and Horses trampling and feeding there, and by some Persons Mowing the Grass on said Beaches, which was wont to preserve the Beaches and prevent the Seas breaking over the same, and covering said *Marish* with Sand, by which some Part of said *Marish* is already destroyed, and the whole is in Danger of being buried with the Sand, if not timely prevented :

Persons forbidden to drive Cattle &c. on the Beaches between *Wells* and *Ogunquit Harbours*, on Penalty.

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the first Day of *September* next, no Person shall presume to turn or drive any Neat Cattle, Horses or Sheep upon the said Beaches to feed, or leave them at large there, on the Penalty of four Shillings a Head for all Neat Cattle and Horse-kind, and six Pence for every Sheep so turned upon any of said Beaches to feed, or that shall be found at large there, which Penalty may be recovered by any Person of the said Town of *Wells*, one Moiety thereof to be to the Informer that shall sue for the same, and the other Moiety to be to and for the Use of the Poor of said Town.

Cattle to be impounded in Case.

And be it further enacted, That it shall and may be lawful for any Person or Persons of the said Town of *Wells*, finding any Cattle, Horse-kind or Sheep, feeding or going at large upon the Beaches aforesaid, or any of them, to impound the same, and the Person or Persons impounding them shall give publick Notice thereof in said Town of *Wells*, and shall relieve said Creatures whilst impounded, with suitable Mear and Water, and the Owner thereof appearing shall pay to the Impounder two Shillings for each Head of Neat Cattle and Horse-kind, and four Pence for each Sheep so impounded, and Cost of impounding them ; and if the Owner do not appear within the Space of six Days and pay the Damages and Cost occasioned by Impounding the same, then and in every such Case the Person or Persons Impounding such Cattle, Horse-kind or Sheep, shall cause them to be sold at public Vendue for paying such Damages and Costs, and the Charge arising by such Sale, publick Notice of the Time and Place of such Sale being given forty-eight Hours before Hand, and the Overplus, if any be, to be returned to the Owner of such Cattle, Horse-kind or Sheep on his Demand, at any Time within twelve Months next after the Sale ; and if no Owner shall appear within the said twelve Months, then one Moiety of the Overplus shall be to the Party impounding, and the other Moiety thereof to the Use of the Poor of said Town.

Cattle to be sold in Case.

And

Wells and Ogunquit Harbours.

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And be it further enacted, That if any Person shall presume to Mow any Grass on said Beaches, or carry away any from off said Beaches, shall forfeit and pay the Sum of *Five Pounds* for every Tun, and so in Proportion for a greater or less Quantity; which Penalty may be recovered by any Person of the Town of *Wells*, one Moiety thereof to be to the Informer that shall sue for the same, and the other Moiety to be to and for the Use of the Poor of said Town.

Penalty for
Mowing &c.
said Beaches.

And be it further enacted, That no Person shall presume to leave open any Bars or Gates athwart any Road that leads to the said Beaches, on Penalty of *Six Shillings*, which Penalty may be recovered by any Person of the Town of *Wells*, the whole thereof to be to him or them that shall sue for the same.

Penalty for
leaving open
Bars &c. lead-
ing to said
Beaches.

And be it further enacted, That in Case any Dispute arise upon any Action, Bill, Complaint or Information, brought as aforesaid, where the Plaintiff, Complainant or Informer shall charge the Defendant in Trespass for cutting or carrying off any Grass from said Beaches, or leaving open any Bars or Gates as aforesaid, then and in such Case if the Plaintiff, Complainant, or Informer, or his Agent or Attorney, shall make Oath *bonâ fide*, that there hath been cut or carried away to the best of his Judgment, any certain Quantity of Grass, or that any Bars or Gates have been left open as mentioned in the Writ, and that he suspects the Defendant to have committed the said Trespasses, and although the Plaintiff, Complainant or Informer, or his Agent or Attorney, may not be able to produce any other Evidence thereof, than such Circumstances as render it highly probable in the Judgment of the Court or Justice before whom the Trial is, then and in every such Case, unless the Defendant shall acquit himself upon Oath (to be administered to him by the Court or Justice that shall try the Cause) the Plaintiff shall recover against the Defendant Damages and Costs; but if the Defendant shall acquit himself upon Oath as aforesaid, the Court or Justice may and shall enter up Judgment for the Defendant to recover against the Plaintiff double his Cost occasioned by such Prosecution.

In Case any
Dispute arise,
how the same
may be deter-
mined by the
Oath of the
Plaintiff &c.
unless.

And be it further enacted, That the said Town of *Wells* at their Meeting in *March* annually for the Choice of Town Officers be and hereby are authorized and empowered to chuse two or more Persons, whose Duty it shall be to see that this Act be observed and prosecute the Breakers thereof, who shall be sworn to the faithful Discharge of their Office; and in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay *sixteen Shillings* for the Use of the Poor of the said Town of *Wells*, and the said Town of *Wells* at a Town Meeting warned for that Purpose, may at any Time before *March* next chuse such Officers who shall continue until their annual Meeting in *March* next.

Officers to be
chosen to see
this Act car-
ried into Exe-
cution.

This Act to be in Force until the first Day of *September* One Thousand seven Hundred and sixty, and to the End of the then next Sitting of the General Court, and no longer.

Penalty for
not serving.

Limitation.

Revis'd and Continu'd 'till January 30. 1771.

[The two foregoing Acts were Published September 1. 1757.]

[F f] Acts

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-fifth Day of *May* 1757, and continued by Prorogations to Wednesday the twenty-third Day of *November* following, and then met.

C H A P. III.

An Act further to exempt Persons commonly called *Quakers* and *Annabaptists* from paying Ministerial Taxes.

Preamble.

WHEREAS the several Acts for exempting Persons commonly called *Quakers* and *Annabaptists* within this Province, from being taxed for and towards the Support of Ministers, are expired:

Quakers and
Annabaptists
exempted
from Taxes
for Ministers
and Meeting-
Houses.

Be it enacted by the Governor, Council and House of Representatives, That from and after the first Day of *February* next, none of the Persons commonly called *Quakers* or *Annabaptists*, who alledge a Scruple of Conscience as the Reason of their Refusal to pay any Part or Proportion of such Taxes as are from Time to Time assessed for the Support of the Minister or Ministers of any Church settled by the Laws of this Province, in the Town, District, Precinct or Parish, where they dwell, shall have their Poll or Estate, Real or Personal in their own Hands, and under their actual Improvement, taxed towards the Settlement or Support of such Minister or Ministers, nor for Building or Repairing any Meeting-House, or Place of publick Worship.

And to the Intent that it may be the better known what Persons are of the Perswasion of the People called *Quakers*, who are exempted by this Act:

Rule for de-
nominating
Persons *Qua-*
kers in the
Sense of the
Law.

Be it further enacted, That no Person in any Town, District, Precinct or Parish, within the Limits of this Government, shall for the future be esteemed or accounted to be a *Quaker*, and have his Poll or Polls, or any Estate to him or her belonging, exempted from paying a proportionable Part of the Ministerial Taxes, that shall be raised therein; but such whose Name shall be contained in a List or Lists to be taken and exhibited on or before the first Day of *February* next; and afterwards during the Continuance of this Act, on or before the twentieth Day of *July* annually, to the Assessors of such Town, District, Precinct or Parish, and signed by three or more of the principal Members of that Meeting to which he or they belong, who shall therein certify, that they verily believe, the Persons whose Names are inserted in said List or Lists, are really belong-
ing

ing thereto, and are conscientiously of their Perswasion, and that they do frequently and usually attend their Meetings for the Worship of GOD on the Lord's Day.

And to the Intent, that the Annabaptists, who are truly such, and therefore exempted by this Act, may be the better known and distinguished, from those who pretend to be, but really are not of that Perswasion :

Be it further enacted, That no Person in any Town, District, Precinct or Parish as aforesaid, shall be so esteemed or accounted to be an *Annabaptist*, as to have his or her Poll or Polls, or any Estate to him or her belonging exempted from paying a proportionable Part of the Ministerial Taxes, that shall be raised therein, but such whose Names shall be contained in a List or Lists to be taken and exhibited on or before the first Day of *February* next, and afterwards during the Continuance of this Act on or before the twentieth Day of *July* annually, to the Assessors of such Town, District, Precinct or Parish, and signed by three principal Members of the *Annabaptist* Church, to which he or they belong, and the Minister thereof, if any there be, who shall therein certify, that the Persons, whose Names are inserted in said List or Lists, are really belonging thereto, that they verily believe them to be conscientiously of their Perswasion, and that they do frequently and usually attend the publick Worship in such Church on the Lord's Day.

Rule for denominating Persons *Annabaptists* in the Sense of the Law.

This Act to be in Force for the Space of three Years from and after the first Day of *February* One Thousand seven Hundred and fifty-eight, and no longer.

Limitation.

Revis'd and Continu'd to January 30. 1771.

CHAP IV.

An Act for altering a Clause in an Act made in the thirtieth Year of his present Majesty's Reign, Intituled *An Act to prevent Damages being done unto Billingsgate-Bay in the Town of Eastham, by Cattle and Horses feeding on the Beach and Islands adjoining thereto.*

WHEREAS by said Act, Liberty is given to Samuel Smith, Esq; his Heirs &c. to feed a certain Number of Cattle on the Beach and Islands therein mentioned ; he performing several Conditions in the Act recited, among which one is mentioned by way of Proviso, viz. That the said Samuel Smith, his Heirs, Executors or Administrators, shall and do make and maintain a good and sufficient Fence across the North Part of the Island (therein mentioned) and into the Sea ; which Article is represented Impracticable to be done ; And whereas the Town of Eastham, together with the said Samuel Smith, have Petitioned that the Paragraph relating to said Fence and into the Sea, be taken off :

Preamble.

Be

Regulation of Indians.

Clause in said
Act rendered
void.

Be it enacted by the Governor, Council and House of Representatives,
That that Part of the Proviso in said Act above recited, relative to the
Fence aforesaid, be and hereby is declared null and void, and no longer be
esteemed as Part of said Act during it's Continuance.

[*The two foregoing Acts were Published January 26. 1758.*]

An Act,

Passed by the Great and General Court or Assembly of
His Majesty's Province of the *Massachusetts-Bay* in
New-England: Begun and Held at *Boston*, upon
Wednesday the thirty-first Day of *May* 1758.

C H A P. V.

An Act in Addition to the several Acts for the better
Regulating the Indians.

Preamble.

WHEREAS the Act of this Government, Intituled An Act in Addi-
tion to the several Acts for the better Regulating the Indians, is near
expiring, and as said Act has proved very beneficial to the Indians,
and a further Regulation is also necessary :

Three proper
Persons to be
appointed as
Guardians to
the Indians in
their respect-
ive Plantati-
ons.

Be it enacted by the Governor, Council and House of Representatives,
That there be three proper Persons appointed for the future by this Court
near to every Indian Plantation in this Province, Guardians to the said Indians
in their respective Plantations, who are hereby impowered from and after
the twenty-third Day of *June* A. D. 1758, to take into their Hands the
said Indians Lands, and allot to the several Indians of the several Plantations,
such Parts of the said Lands and Meadows as shall be sufficient for their
particular Improvement from Time to Time during the Continuance of this
Act; and the Remainder, if any there be, shall be let out by the Guar-
dians of the said respective Plantations, to suitable Persons for a Term not
exceeding the Continuance of this Act: And such Part of the Income there-
of as is necessary shall be applied for the Support of such of the Proprie-
tors in their respective Plantations as may be sick or unable to support them-
selves; and the Surplusage thereof, if any there be, shall be distributed
amongst them according to their respective Rights or Interest for providing
Necessaries for themselves and Families, and for the Payment of their just
Debts, at the Discretion of their said Guardians, and that the respective
Guardians aforesaid be hereby impowered and enabled in their own Names,
and in their Capacities as Guardians, to bring forward and maintain any
Action or Actions for any Trespass or Trespases that may be committed on
the said Indian Land, and that any Liberty or pretended Liberty obtain-
ed from any Indian or Indians for cutting off any Timber-Wood or Hay,
milking Pine-Trees, carrying off any Ore or Grain, or planting or improving
said Lands, shall not be any bar to said Guardians in their said Action or Actions.

Provided,

Regulation of Indians.

Provided, That nothing in this Act shall be understood to bar any Person or Persons from letting Creatures run upon the said Indians unimproved Lands that lie common and contiguous to other Towns or Proprietors.

And be it further enacted, That from and after the twenty-third Day of June aforesaid, no Indian or Indians shall sell or lease out to any other Indian or Indians any of his or her Lands without the Consent of the Guardians, or a major Part of the Guardians of the Indians of the Plantation wherein such Lands do lye; and all Sales or Leases of Land for any Term or Terms of Years that shall at any Time hereafter during the Continuance of this Act, be made by any Indian or Indians to any other Indian or Indians, shall be utterly void and of none Effect, unless the same be made by and with the Licence of the respective Guardians as aforesaid.

Indians prohibited leasing or selling Lands, &c.

And be it further enacted, That no Action shall be brought against any of the said Indians for any Debt hereafter to be by them contracted with any English Persons for any Sum whatsoever, unless the same be first examined and allowed by the Court of General Sessions of the Peace for the County where such Indian or Indians live, or the respective Guardians of such Plantations where such Indian or Indians live, except Specialties approbated according to the Law of this Province made in the fourth and fifth Year of the Reign of his Majesty King George the first Intituled *An Act in Addition to the Act for preventing Abuses to the Indians*, made in the twelfth Year of King William.

No Action to be brought against any Indian for Debt, unless.

And be it further enacted, That the several Guardians aforesaid shall keep a fair Account of their Proceedings in the abovesaid Affair, to be by them laid before the General Court from Year to Year, by said Court to be adjusted and allowed of.

Guardians to keep a fair Account, &c.

This Act to continue and be in Force for the Space of three Years from said twenty-third Day of June, and from thence to the End of the next Session of the General Court, and no longer.

Limitation.

Reviv'd and Continu'd 'till July 1. 1767.

[*This Act was Published June 16. 1758.*]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1758, and continued by sundry Prorogations to Friday the twenty-ninth Day of *December* following, and then met.

C H A P. I.

An Act in Addition to an Act Intituled An Act to prevent Fraud in Cord-Wood exposed to Sale.

Preamble.

WHEREAS in and by an Act made and passed in the fourth Year of her late Majesty Queen Anne, Intituled An Act to prevent Fraud in Cord-Wood exposed to Sale, It is enacted, "That all Cord-Wood exposed to Sale shall be four Feet long, accounting to half the Carf; and the Cord being well and close laid together, shall measure eight Feet in length, and four Feet in height." Notwithstanding which great Frauds and Abuses have for several Years past, and still are daily committed in bringing to many Towns in this Province, and there exposing to Sale great Quantities of Fire-Wood commonly called Cord-Wood, not more than three Feet, or three Feet and a half long, whereby the Inhabitants of such Towns, and especially the Poor thereof are greatly injured and defrauded, there being no Penalty annexed by said Law to such Persons as are guilty of the Breach thereof:

For Remedy whereof, and for preventing the like Abuses for the future,

Admeasure-
ment of Cord-
Wood.

Be it enacted by the Governor, Council and House of Representatives, That if any Fire-Wood or Wood designed for Fewell commonly called Cord-Wood, which shall be less in length than four Feet including half the Carf as aforesaid, shall after the first Day of *November* next, be brought by Water into any Towns in this Province for Sale, such Wood shall be forfeited, two third Parts thereof to the Use of the Poor of the Town, and the other third Part thereof to the Sealer of Wood, who shall seize the same accordingly.

Penalty.

Select-Men
to appoint
meet Persons
to be Sealers
of Wood, &c.

And be it further enacted, That in every Town or District within this Province, where Wood is usually sold by the Cord, the Select-Men shall annually, or as Occasion shall require, nominate and appoint some meet Persons to be Measurers and Sealers of Wood, who shall be sworn in like Manner as other Town Officers to the faithful and diligent Discharge of their Office, and the Select-Men shall from Time to Time appoint such Fees or Allowance for their Service as they shall judge reasonable.

And

Cord Wood.

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And be it further enacted, That no Wharfinger or Carter shall by himself, or any for or under him, cart or carry any Fire-Wood or Wood commonly used or intended for Fewell from any Wharff or landing Place in any Town in this Province, except for the proper Use and Consumption of such Wharfinger or Carter, that shall not be four Feet in length, including half the Cart, and until it hath been first measured by the Officer appointed by the Select-Men as aforesaid, on Penalty of forfeiting and paying *six Shillings* for every Load of Wood so carried off, and every Wharfinger shall be chargeable to the Officer or Person appointed to measure Wood as aforesaid, for his Fees (if demanded) and be compelled by Law to pay him the same.

Penalty for carting or carrying Wood until measur'd.

And whereas frequent Complaints are made that such of the Inhabitants of the Town of Boston as are Poor, and usually purchase their Fire-Wood and Charcoal in small Quantities, are greatly defrauded in their Measure, and not having the Quantity bought :

Preamble.

For preventing whereof, and for ascertaining the Quantity of Wood and Charcoal bought,

Be it enacted, That each Cart or Sled employed by any Wharfinger or common Carter belonging to the Town of Boston, be so marked and numbered by the Sealer of Wood on some proper Part of such Cart or Sled, as that it may thereby be seen and known what Quantity of Wood such Cart or Sled will contain and carry, and the Marks and Number of each Cart or Sled shall be registred by the Town-Clerk of said Town : And no Wharfinger or Carter aforesaid shall presume to carry any Wood unless for his own Fire in any Cart or Sled that shall not have been so marked, numbered and registred, and that shall not have at the Time of such Carrying the Marks and number remaining visible thereon. *Provided nevertheless,* and it is the true Intent and Meaning of this Act, That when any Person purchases a Quantity of Fire-Wood for his own Burning, and lands it on any Wharfe or Landing besides a common Wharfinger's he may employ any Cart or Carts to carry off the same ; saving only, that such Carter shall not carry within the Town of Boston more than six Feet at a Time, under the Penalty of *six Shillings* for each Offence. And no greater Quantity than six Feet shall within the Town of Boston be carried at any one Time, and every Person offending in either of the Particulars aforesaid, shall forfeit and pay the Sum of *six Shillings* for each Offence. And if any Dispute shall arise between the Buyer and Seller as to the Quantity of Wood delivered, and the Quantity bought or agreed for ; and if on Cording and Sealing the same at the Place of Delivery, it shall appear there is not the Quantity of Wood delivered which was bought or agreed for, the Seller shall pay the Buyer the Costs of Carting and Sealing the Wood the second Time, as also the Sum of *four Shillings* for each Offence.

Carts or Sleds to be marked & numbered, &c.

Proviso.

Penalty.

And be it further enacted, That all Baskets used and improved in measuring Charcoal brought into any Town for Sale, shall contain two Bushels, and be of the following Dimensions, viz. twenty-one Inches in Height, and nineteen Inches in Breadth ; and every Person that shall measure Coal in any Basket of less Dimensions, shall forfeit and pay for each Offence the Sum of *three Shillings*, and the said Basket shall be destroyed. *Provided nevertheless,* That no Persons shall be obliged to measure Coal sold, where the Quantity shall be agreed upon by the Buyer and Seller.

Admeasure-ment of Baskets for Charcoal.

Penalty.

Proviso.

And

Select-Men to
appoint meet
Persons to
seize deficient
Baskets for
measuring
Charcoal, &c.

Fines how to
be recovered
and applied.

Limitation.

And be it further enacted, That the Select-Men of any Town where Coal is usually sold, or the major Part of them, be and hereby are fully im-
powred to appoint as Occasion shall require, such meet Person as they shall
judge proper for seizing and securing all Baskets improved for measuring Coal,
that are not of the Dimensions aforesaid, and prosecute such Person or
Persons as shall be guilty of the Breach of this Act. All Fines and For-
feitures arising on the Breach of this Act, may be recovered by Bill, Plaint,
or Information, in any Court of Record, or before any of his Majesty's
Justices of the Peace, according to the Nature of the Offence, one Moiety
thereof shall be for the Informer, and the other Moiety for the Use of the
Poor of the Town where the Offence shall be committed.

This Act to be in Force for three Years from and after the first Day of
November next, and to the End of the then next Sitting of the General
Court, and no longerr

Reviv'd and Continu'd till July 1. 1767.

CHAP. II.

An Act providing that the solemn Affirmation of the
People called *Quakers*, shall in certain Cases be
accepted instead of an Oath in the usual Form.

Preamble.

WHEREAS the People called *Quakers* profess to be in their
Consciences scrupulous of taking an Oath in the Form by Law
required :

Quakers per-
mitted to make
Affirmation.

*Be it therefore enacted by the Governor, Council and House of Repre-
sentatives,* That from and after the tenth Day of February One Thousand
seven Hundred and fifty-nine, every *Quaker* within this Province who
shall be required upon any lawful Occasion to take an Oath, where by Law
an Oath is required, shall instead of the usual Form be permitted to make
his or her solemn Affirmation or Declaration in the Words following, viz.

Form of
Affirmation.

*I A. B. do solemnly and sincerely affirm and declare
under the Pains and Penalties of Perjury.*

Affirmation to
be of Force
and Effect &c.

Which said solemn Affirmation or Declaration shall be adjudged and
taken, and it is hereby enacted and declared to be of the same Force and
Effect to all Intents and Purposes in all Courts of Justice, and other Places
where by Law an Oath is required within this Province, as if such *Quaker*
had taken an Oath in the usual Form.

False Affir-
mation to be
deemed Per-
jury.

And be it further enacted, That if any *Quaker* making such solemn
Affirmation or Declaration shall be lawfully convicted wilfully, falsely and
corruptly, to have affirmed or declared any Matter or Thing, which if
the same had been in the usual Form, would have amounted to wil-
ful and corrupt Perjury, every such *Quaker* so offending shall incur the
same Penalties and Forfeitures as by the Laws of this Province are enacted
against Persons convicted of wilful and corrupt Perjury.

Provided

Affirmation of Quakers.

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Provided always, and be it enacted, That no Quaker or reputed Quaker, shall by Virtue of this Act be qualified or permitted to serve on any Jury in any of the Courts within this Province (without taking the Oath by Law required, except in civil Causes only, and in such Causes such Persons shall be liable to serve as a Juror on taking the Affirmation aforementioned, and on refusing to take the same shall be subjected to the same Fine that others are by Law subjected to for not serving as Jurors) nor bear any Office in this Government where an Oath is by Law required to qualify a Person for the discharge of such Office, except in Town Offices only, and in such Case not to serve as an Assessor or Collector for any Rate or Tax to be made for the Support of the Minister or Ministers in any Town, or for building or repairing of any House for the public Worship of GOD within the same.

Proviso.

And be it further provided and enacted, That where one half or more of the Assessors or Collectors of any Town shall be of the People called Quakers, such of the Inhabitants of said Town who are not Quakers, may and shall at the same Meeting at which such Assessors or Collectors being Quakers are chosen, proceed to the Choice of an equal Number of other Persons who are not Quakers, and such Assessors or Collectors so chosen, shall be as fully qualified by themselves where the whole Number of the first chosen Assessors are Quakers, or together with the other Assessors who are not Quakers, when any such there be, to make Rates and Taxes for the Settlement and Support of the Ministry, and for building and repairing any House or Houses for the public Worship of GOD within such Town, and for no other Purposes; and such Collector shall be as fully empowered to collect the same as they the said Assessors and Collectors would have been, had no other Assessors or Collectors been before chosen; and any Assessor or Collector so chosen, shall be liable to the same Penalty for refusing to serve in their respective Office as he would have been had he been chosen and refused to serve as Assessor or Collector of all the Rates and Taxes in said Town.

In Case the Majority of Assessors or Collectors chosen being Quakers, Towns im-
powered to choose other Persons, &c.

This Act to continue and be in Force for the Space of five Years from the tenth Day of February One Thousand seven Hundred and fifty-nine.

Limitation:

[The two foregoing Acts were Published February 14. 1759.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1758. And continued by fundry Prorogations and Adjournment to Wednesday the eleventh Day of *April* following and then met.

C H A P. III.

An Act in Addition to an Act Intituled *An Act for Regulating of Fences, Cattle &c.*

Proprietors of Lands agreeing to improve the same in one common Inclosure impowered to make Rules for the Improvement of the same, &c.

BE it enacted by the Governor, Council and House of Representatives, That when and so often as the Proprietors of certain Tracts of Land so situated as that they have or do agree to improve the same in one common Inclosure, they shall have it in their Power by a major Vote of the said Proprietors legally met (the Votes to be reckoned according to the Interest of each Voter) to make such Rules relating to the Securing and Improvement of the same as they shall think just and equitable, and for that End said Proprietors shall annually meet together sometime in the Month of *May* this Year, and in the Month of *March* in future Years during the Continuance of this Act; and for the calling said Meetings, any one of the Proprietors of such Tracts of Land may apply to a Justice of the Peace by a Request in Writing under his Hand, setting forth the Ends and Business of such Meeting, such Justice is hereby required and authorized to issue a Warrant to said Proprietor, directing him to post up a Notification in Writing in some publick Place in the Town where said Land lays fourteen Days before the Time appointed for said Meeting, setting forth the Time Place Ends and Purposes of said Meeting, which shall be a legal Warning: And all Votes passed by the Proprietors then present relative to the Matters and Things contained in said Notification and Entred in a Book by the Proprietor that called the Meeting (he being under Oath for that purpose) shall be binding upon all the Proprietors.

Provido.

Provided nevertheless, That when and so often as one or two Men shall own the greater Part of the Lands enclosed (as above expressed) and he or they shall pass such Vote or Votes at any Meeting as the minor Part of said Proprietors do not agree to, the said minor Part of said Proprietors may apply to two Justices of the Peace (*Quorum Unus*) within the County in which such Land lies for Process, which Justices are hereby authorized to issue a Writ of Summon directed to the Proprietor or Proprietors who passed such Vote or Votes requiring him or them to appear before the said Justices fourteen Days after the Date of said Summon; and the said Justices are hereby authorized and impowered to hear, examine, and enter final Judgment concerning the Matter in Controversy, and award a Writ of Execution upon

Revival of Laws. Executors and Administrators. 119

upon such Judgment returnable to them in thirty Days from the Date thereof; and in Case any of the Proprietors shall neglect seasonably and sufficiently to make up his Part of Fence he shall be liable to the Penalty by Law provided to enforce the Proprietors of Common Fields to make and maintain their Fences; and in Case any Proprietor turn Stock into said Inclosure before the Day agreed upon by the Vote of the Proprietors, or shall after that Day turn in more Stock than his Proportion, he shall be deemed a Trespasser, and his Creatures so put in shall be proceeded with by any of the Proprietors as Creatures taken Damage feasant to all Intents and Purposes, as much as tho' he owned no Lands in said Inclosure: Any Law Usage or Custom to the contrary notwithstanding.

This Act to continue and be in Force for the Space of two Years from the first Day of May next, and no longer. Limitation.

Reviv'd and Continu'd till July 1. 1767.

CHAP. IV.

An Act for reviving and continuing fundry Laws that are expired or near expiring.

WHEREAS the several Acts herein after mentioned, which are Preamble.
now expired or near expiring, have been found useful and beneficial,
namely, two Acts made in the thirteenth Year of his present Majesty's Reign; the one Intituled An Act for the effectual preventing of
Horses, Neat Cattle, Sheep and Swine from running at Large, or feeding Sundry Laws
expired or
near expiring,
reviv'd and
continued.
upon a certain Island called Plumb-Island, lying in Ipswich Bay in the
County of Essex; The other Intituled An Act in Addition to the several
Laws of this Province relating to common Roads and private Ways; And
one Act made in the twenty-sixth Year of his present Majesty's Reign Intituled An Act for further Regulating the Proceedings of the Court of
Probate within this Province."

Be it therefore enacted by the Governor, Council and House of Representatives, That the two first mentioned Acts, which are near expiring, be, and they hereby are continued; and that the last mentioned Act, which is expired, with all and every Article, Clause, Matter and Thing therein contained, be and hereby is revived; and that all the said Acts shall be in Force until the tenth Day of June, in the Year of our Lord One Thousand seven Hundred and Sixty-six, and no longer. Their Continuance to
10th of June
1766.

CHAP. V.

An Act in Addition to an Act relating to Executors and Administrators.

WHEREAS some Doubts and Questions have arisen upon the Construction of some Parts of an Act Intituled an Act relating to Executors and Administrators, Whether by Force of the same, Real Preamble.
Estates of the Testators and Intestates may be taken in Execution for the
Satisfaction of the Judgments recovered against their Estate in the Hands
of

of their Executors and Administrators, and in what Manner the same should be levied; and whether Executors and Administrators, who by neglecting to raise Money out of the Assets by Sales of Personal Estate or Real Estate, if Need be, shall subject the Estates of their Testators or Intestates to the Cost and Loss that must attend such a Method of paying Debts, shall be deemed guilty of Waste or Breach of Trust:

Estates of
Testators and
Intestates lia-
ble to Execu-
tion &c.

Be it enacted by the Governor, Council and House of Representatives, That the Real Estates of any Testators or Intestates are and shall be liable to be taken and levied upon by any Execution issuing upon Judgments recovered against Executors or Administrators in such Capacity, being the proper Debts of the Testators or Intestates, and that the Method of Levying, Appraising, Recording and Right of Redemption, shall be the same as by Law is provided respecting other Real Estates levied upon and taken in Execution.

Neglect of
Executors and
Administrators
deemed
Waste &c.

And be it further enacted, That when any Executor or Administrator shall neglect or unreasonably delay to raise Money out of his Testators or Intestates Estate, by collecting the Debts due to the Estate, and selling the Personal Estate, or the Real Estate (if need be and he has power or can obtain Leave to sell the same) or shall neglect to pay what he has in his Hands, and by such Neglect or Delay shall subject his Testators or Intestates Real or Personal Estate to be taken in Execution; the same shall be deemed Waste in him and unfaithful Administration.

Preamble.

And whereas it sometimes may happen that the Estate taken by Execution as aforesaid, or sold by Virtue of a Licence from the Superiour Court, has been specially devised by the Testator to one or more Persons, who by Means of such Levying or Sale may be deprived of his or their Legacy or Devise: Therefore,

Real Estate
or Chattles of
Testators ta-
ken in Execu-
tion to be born
proportiona-
bly among
the Legatees

Be it further enacted, That whenever any Testator in and by his last Will and Testament hath given or shall give any Chattles or Real Estate to any Person or Persons, and the same hath been or shall be taken in Execution in Manner aforesaid, or sold by order of the Superior Court, in such Case all the other Legatees, Devisees or Heirs, shall refund their Average or proportionable Part of such Loss to such Person or Persons from whom the Bequest shall be so taken away, and he or they shall and may maintain a Suit or Action to compel such Contribution.

Limitation.

This Act to continue and be in Force for the Space of Five Years from the Seventeenth Day of April, One Thousand seven Hundred and Fifty-nine, and no longer.

[*The three foregoing Acts were Published April 25, 1759.*]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the thirtieth Day of *May* 1759, and from thence continued by sundry Prorogations to Wednesday the second Day of *January* following, and then met.

C H A P. I.

An Act for Establishing and regulating the Fees of the several Officers within this Province hereafter mentioned.

BE it enacted by the Governor, Council and House of Representatives, in General Court assembled, That from and after the Publication of this Act, the Establishment of the Fees belonging to the several Officers hereafter mentioned in this Province, be as followeth, viz.

Fees established.

Justices Fees.

FOR granting a Writ together with a Summons, or Original Summons, *one Shilling.*

Justices Fees.

Sub-Pæna for each Witness, *a Penny half Penny.*

Entring an Action or filing a Complaint in Civil Causes, *two Shillings.*

Writ of Execution, *one Shilling and four Pence.*

Filing Papers, each *a Penny half Penny.*

Taxing a Bill of Cost, *three Pence.*

Entring up Judgment in Civil or Criminal Cases, *nine Pence.*

Copy of every Evidence, original Papers or Records, *eight Pence per Page,* for each Page of twenty-eight Lines, eight Words in a Line.

If less than a Page, *four Pence.*

Each Recognizance or Bond of Appeal, *one Shilling.*

Taking Affidavits out of their own Courts in order for the Trial for any Cause, *one Shilling*; and *one Shilling and six Pence*, for his Travel every ten Miles, and so in Proportion; his Travel to be certified on the Affidavit.

In other Cases together with Certificates, examining and entring, *six Pence.*

In Perpetuam (to each Justice) *one Shilling.*

Acknowledging an Instrument with one or more Seals, provided at one and the same Time, *one Shilling.*

A Warrant, *one Shilling.*

Entring a Complaint, making up Judgment therein, the same as in Civil Causes.

For granting a Warrant, swearing Apprizers relating to Strays, and entring the same, *one Shilling and six Pence.*

Coroners Fees.

Coroners Fees

FOR serving a Writ, Summons or Execution, and travelling Fees, the same as by this Act hereafter allowed to Sheriffs.

Bail Bond, *one Shilling.*

Every Trial where the Sheriff is concerned, *eight Pence.*

For tending the Jury, *one Shilling.*

Taking an Inquisition (to be paid out of the Deceased's Estate) *five Shillings.*

If more than one at the same Time, *seven Shillings and six Pence,* in the Whole.

If no Estate, then to be paid out of the County Treasury *five Shillings.*

For Travelling and Expences for taking an Inquisition, each Day *four Shillings.*

The Foreman of the Jury *three Shillings,* and ten Miles accounted a Day's Travel, *one Shilling* per Day.

Every other Juror, *two Shillings and six Pence,* and Travel the same as the Foreman.

The Constable for his Expences, summoning the Jury and Attendance, *four Shillings* per Day.

Judge of Probates and Registers Fees.

Judge of Probates and Registers Fees.

FOR granting Administration or Guardianship,

To the Judge, *three Shillings.*

To the Register for writing Letter and Bond of Administration and Guardianship, *two Shillings and six Pence.*

For granting a Guardianship of divers Minors to the same Person, and at the same Time; To the Judge for each Minor, *one Shilling and six Pence.*

To the Register for each Letter of Guardianship and Bond as before.

Proving a Will or Codicil, to the Judge *three Shillings and six Pence,* to the Register *two Shillings and six Pence.*

Recording a Will, Letter of Administration or Guardianship, Inventory or Account, of one Page, and filing the same, *one Shilling and three Pence.*

For every Page more of twenty-eight Lines, of eight Words in a Line, *eight Pence.*

For Copy of a Will and Inventory for each Page, *eight Pence.*

Allowing Accounts, *three Shillings* to the Judge; Decree for settling Intestate Estates; to the Judge, *three Shillings.*

For examining such Accounts, *one Shilling.*

A Citation, *nine Pence.*

A Quietus, to the Judge, *one Shilling;* to the Register, *one Shilling.*

Warrant or Commission for appraising or dividing Estates, *one Shilling and six Pence* to the Judge. To the Register, *one Shilling.*

Making out Commission to receive and examine the Claims of Creditors to Insolvent Estates; To the Judge, *one Shilling,* to the Register *one Shilling.*

For Recording, *eight Pence* each Page.

Registering the Commissioners Report, each Page *eight Pence.*

Making out and entering an Order upon the Administrators for the Distribution of the Estate; To the Judge *one Shilling and six Pence,* to the Register, *one Shilling.*

For proportioning such Estate among the Creditors, agreeable to the Commissioners Return when the Estate exceeds not *Fifty Pounds,* *three Shillings,* and above that Sum, *four Shillings.*

For recording the same, *eight Pence* per Page.

And

Regulation of Fees.

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And be it further enacted, That whensoever any Fees shall be paid in the Probate Office for the Probate of a Will, and Letters Testamentary, or for granting Letters of Administration, or Letters of Guardianship, or for any Matter or Thing from Time to Time arising in Consequence of such Letters Testamentary, or Letters of Administration, or Letters of Guardianship, and until the Estate upon which they are respectively granted shall be fully settled, a particular Account of such Fees before Payment shall by the Register or Judge be set down in Writing and given to the Person paying the same. And any such Fees received without being thus ascertained in Writing shall be deemed illegal Fees, and the Person receiving the same shall forfeit and suffer accordingly.

In the Superiour Court.

Justices Fees.

ENtring an Action, *six Shillings and eight Pence.*
Taking special Bail, *one Shilling and six Pence.*
Allowing a Writ of Error, *two Shillings.*
Allowing a Habeas Corpus, *one Shilling and four Pence.*
Taxing a Bill of Cost, *eight Pence.*
Attorney's Fee (to be allowed in the Bill of Cost taxed) where the Case is tried by a Jury, *twelve Shillings*, where it is otherwise, *six Shillings.*
Granting Liberty for the Sale or Partition of Real Estates, *one Shilling.*
On receiving each Petition, *one Shilling.*
Allowance to the Party for whom Costs shall be taxed, and to Witnesses in Civil and Criminal Causes, *one Shilling and six Pence* per Day, ten Miles Travel to be accounted a Day, and the same Allowance to be made to Parties as to Witnesses at the Inferiour Courts, Courts of Sessions, and before a Justice of the Peace,
Granting a Writ of Protection, *one Shilling.*

Justices of
the Superiour
Courts Fees.

Clerks Fees.

A Writ of Review, *three Shillings.*
A Writ of Scire Facias, *two Shillings.*
A Writ of Execution, *one Shilling and six Pence.*
A Writ of Facias Habere Possessionem, *two Shillings and six Pence.*
A Writ of Habeas Corpus, *two Shillings.*
Copies, of all Records, each Page of twenty-eight Lines, eight Words in a Line, *nine Pence*, less than a Page *six Pence.*
Entring each Action for Trial, *four Shillings.*
Entring each Complaint, *two Shillings.*
Each Petition entred and read, *one Shilling.*
Order on each Petition granted, *one Shilling.*
Receiving and recording a Verdict, *one Shilling.*
Entring a Rule of Court, *nine Pence.*
Confessing Judgment or Default, *one Shilling.*
Every Action withdrawn or Non-Suit, *one Shilling.*
Entring an Appearance, *six Pence.*
Acknowledging Satisfaction of a Judgment on Record, *eight Pence.*
Examining each Bill of Cost, *eight Pence.*
Continuing each Cause, and entring the same next Term, *one Shilling.*

Clerks Fees.

Filing

Regulation of Fees.

Filing each Paper in each Cause, *one Penny half Penny.*
 Proving a Deed in Court, and certifying the same, *one Shilling.*
 Entering up Judgment, and recording the same at large, *two Shillings.*
 For each Venire, to be paid out of the County Treasuries respectively on
 the Justices Certificate, *three Pence.*
 Every Writ and Seal other than before mentioned, *two Shillings.*
 Every Sub-Pæna, *a Penny half Penny.*
 Each Recognizance, *one Shilling.*
 A Writ of Protection, *one Shilling.*

In the Inferiour Court of Common Pleas.

Justices Fees.

Justices of
the Inferiour
Courts Fees.
E Ntring of every Action, *five Shillings and four Pence.*
 Taxing a Bill of Cost, *six Pence.*
 Taking a Recognizance on Appeals, *one Shilling.*
 Proving a Deed, *one Shilling.*
 Attorney's Fee (to be allowed in the Bill of Cost taxed) *six Shillings.*
 Granting a Writ of Protection, *one Shilling.*

In the Court of General Sessions of the Peace.

Court of Ge-
neral Sessions
of the Peace.
F OR each Day's Attendance at the Sessions, to be paid out of the Fines,
two Shillings and eight Pence.
 For granting every Licence to Retailers and Innholders, and taking their Re-
 cognizance, *six Shillings* in the whole; one third thereof to the Clerk.
 Each Recognizance in Criminal Causes, *one Shilling.*

Clerks Fees.

Clerks Fees.
E Very Action entred, *one Shilling and four Pence.*
 Every Writ and Seal, *six Pence.*
 Every Appearance, *four Pence.*
 Entering and recording a Verdict, *eight Pence.*
 Recording a Judgment, *one Shilling.*
 Copies of all Records each Page of twenty-eight Lines, eight Words in a
 Line, *eight Pence.*
 Every Action withdrawn or Non-Suit, *eight Pence.*
 Every Execution, *one Shilling and four Pence.*
 Confessing Judgment or Default, *eight Pence.*
 Acknowledging Satisfaction of a Judgment on Record, *eight Pence.*
 Continuing each Cause and entering at the next Term, *eight Pence.*
 Each Recognizance, *one Shilling.*
 Examining each Bill of Cost, *six Pence.*
 Each Venire, to be paid out of the County Treasuries respectively, by Order
 of the Court, *three Pence.*
 Writ of Facias Habere Possessionem, *two Shillings.*
 Filing each Paper, *one Penny.*
 A Writ of Protection, *one Shilling.*

Fees for Registers.

FOR each Register (exclusive of Collectors Fee) *five Shillings.*

Registers Fees.

Fees in the Secretary's Office.

FOR Certificates under the Province Seal, *five Shillings* in the whole; *two Shillings* thereof to the Secretary. Fees for the Secretary's Office.

For Warrants of Apprizement, Survey, &c. *six Shillings* in the whole; *three Shillings* thereof to the Secretary.

For a Certificate of Naval Stores, *three Shillings* in the whole.

For engrossing the Acts or Laws of the General Assembly, *six Shillings* each, to be paid out of the public Revenue.

Every Commission for the Justices of each County, and Commission of Oyer and Terminer, *six Shillings and eight Pence*, to be paid out of the public Revenue.

Special Warrants or Mittimus by Order of the Governour and Council, each *two Shillings and six Pence*.

Every Commission under the great Seal for Places of Profit, *six Shillings and eight Pence*, to be paid by the Person Commissionated.

Every Bond, *three Shillings*.

Every Order of Council, to the Benefit of particular Persons, *two Shillings*.

Every Writ for electing of Assembly-Men, directed to the Sheriff or Marshal under the Province Seal, *five Shillings*, to be paid out of the public Revenue.

For transcribing the Acts or Laws passed by the General Assembly into a Book, *eight Pence* per Page, each Page to contain twenty-eight Lines, eight Words in a Line, and so proportionably to be paid out of the public Revenue.

Every Commission for Military Officers to be paid out of the public Treasury; *two Shillings*.

Clerk of the Sessions Fees.

ENTRING a Complaint or Indictment, *one Shilling and four Pence*.

Discharging a Recognizance, *eight Pence*.

Each Warrant for Criminals, *one Shilling*.

Every Summons or Sub-Pæna, *two Pence*.

Every Recognizance for the Peace or good Behaviour, *one Shilling*.

For every other Recognizance, *one Shilling*.

ENTRING up Judgment or entering Satisfaction of Judgment on Record, *one Shilling*.

Warrant for County Tax, *one Shilling*.

For minuting the Receipts of each Petition and Order thereon, and Recording, *eight Pence* per Page as before.

Examining and casting the Grand Jury's Accounts Yearly, and Order thereon, to be paid by the County Treasurer by Order of the Court of Sessions, *one Shilling and six Pence*.

For Copies of all Records or original Papers, *eight Pence* per Page as before.

For filing each Paper, *one Penny*.

For transmitting to the Select-Men of every Town in the County, a List of the Names of the Persons in such Town licenced the Year before, *three Pence*, to be paid by each Person licenced, and no more.

[K k]

Sheriffs

Clerk of the Sessions Fees.

Sheriffs or Constables Fees.

Sheriffs or
Constables
Fees.

FOR the Service of an original Summons or Scire Facias on one Defendant for Trial, either by reading the same, or by Copy, *one Shilling*: If served on more than one Defendant, then for each other Defendant so served, *one Shilling*.

For Service of a Capias or Attachment on one Defendant without a Summons, *one Shilling and four Pence*: If served in like Manner on more than one Defendant, then for each other so served, *one Shilling and four Pence*.

For Service of an Attachment and Summons on one Defendant both together, *one Shilling and four Pence*: If so served on more than one Defendant, then for each other Defendant so served, *one Shilling and four Pence*.

For a Bail Bond to be paid by the Person or Persons admitted to Bail, *one Shilling*.

For serving an Habere Facias Possessionem, exclusive of the Poundage on the Costs of Court, *six Shillings*.

For the Costs on an Habere Facias the same Poundage as in Personal Actions.

For levying Executions in Personal Actions viz. For the first *twenty Pounds* or under, *nine Pence* per Pound; above that not exceeding *forty Pounds*, *four Pence* per Pound; above that not exceeding *one Hundred Pounds*, *two Pence* per Pound; for all above *one Hundred Pounds*, *one Penny* per Pound.

For Travel for the Service of each Execution, or mean Process to him directed, *two Pence* per Mile: The Travel to be computed from the Place of Service to the Court where the Writ or Execution shall be returned, by the Way that is most commonly used; but one Travel to be allowed to one Writ or Execution: And if the same be served on more Persons than one, the Travel to be computed from that Place of Service that is the Remotest to the Place of Return.

The travelling Fees and Fees of Service to be endorsed by the Sheriff or his Deputy on each mean Process or Execution, and shall receive no more than he endorses.

For serving an Execution upon a Judgment of Court for Partition of Real Estates, to the Sheriff, *five Shillings* per Day; and for Travel and Expences, *three Pence* per Mile out from the Place of his Abode, and to each Juror, *two Shillings* per Day, and for Travel and Expences, *three Pence* per Mile.

Every Trial, *eight Pence*.

Every Default, *four Pence*.

For making out every Precept for the Choice of Representatives, sending the same to the several Towns, and returning it to the Secretary's Office, *one Shilling and four Pence*, to be paid out of the County Treasuries respectively.

To the Officer attending the Grand-Jury, each Day *two Shillings*.

To the Officer attending the Petit-Jury, *one Shilling* every Cause.

For dispersing Venires from the Clerk of the Superiour Court, and the Province Treasurer's Warrants, *four Pence* each.

For dispersing Proclamations, *six Pence* each.

For

Regulation of Fees.

For the Encouragement unto the Sheriff to take and use all possible Care and Diligence for the safe Keeping of the Prisoners that shall be committed to his Custody, he shall have such Salary allowed him for the same as the Justices of the Court of General Sessions of the Peace within the same County shall think fit and order, not exceeding *ten Pounds* per Annum for the County of *Suffolk*, and not exceeding *five Pounds* per Annum a piece for the Counties of *Essex* and *Middlesex*, and not exceeding *three Pounds* per Annum a-piece in each of the other Counties within the Province, to be paid out of the Treasury of such County.

Cryer's Fees.

Calling a Jury, *four Pence*.
A Default or Non-suit, *eight Pence*.
A Verdict, *eight Pence*.

Cryer's Fees.

To the Captain of *Castle-William*.

FOR a Pass to the Castle for each Vessel, *two Shillings* in the whole : Captain of the Wood-Sloops and other Coasting Vessels, for which Passes have not Castle's Fees. been usually required, excepted.

Goaler's Fees.

FOR turning the Key on each Prisoner committed, *three Shillings*, viz. *one Shilling and six Pence* in, and *one Shilling and six Pence* out. Goaler's Fees.
For dieting each Person for a Week, *three Shillings*.

Messenger of the House of Representatives.

FOR serving every Warrant from the House of Representatives which they may grant for arresting, imprisoning or taking into Custody any Person, *one Shilling and six Pence*. Messenger of the House of Representatives Fees.
For Travel each Mile out, *two Pence* per Mile.
For keeping and providing Food for such Person each Day, *one Shilling and six Pence*.
For his Discharge or Dismission, *one Shilling and six Pence*.

Grand Jurors Fees.

FOREMAN per Day, *two Shillings and six Pence*.
Each other Juror, *two Shillings*.

Grand Jurors Fees.

Petit Jurors Fees.

TO the Foreman in every Cause at the Superiour and Inferiour Courts or Sessions, *two Shillings and six Pence*. Petit Jurors Fees.
To every other Juror, *one Shilling and six Pence*.

For

For Marriages.

Fee for Marriages.

FOR each Marriage, to the Minister or Justice officiating, *four Shillings*.
For recording it, to the Town-Clerk (to be paid by the Minister or Justice) *four Pence*, and to the Clerk of the Sessions (to be paid by the Town-Clerk) *two Pence*.

To the Town-Clerk for every Publishment of the Banns of Matrimony and entring thereof, *one Shilling*.

Every Certificate of such Publishment, *six Pence*.

Recording Births and Deaths, each *two Pence*.

For the Certificate of the Birth or Death of any Person, *three Pence*.

County Registers Fees.

County Registers Fees.

FOR entring or recording or copying any Deed, Conveyance or Mortgage, for the first Page, *nine Pence*, and *eight Pence* per Page for so many Pages more as it shall contain, accounting after the Rate of twenty-eight Lines, of eight Words in a Line to each Page, and proportionably for so much more as shall be under a Page, and *three Pence* for his Attestation on the Original of the Time, Book and Folio where it is recorded: The Fees to be paid at the offering the Instrument.

And for a Discharge of a Mortgage, *eight Pence*.

Penalty for taking excessive Fees.

And be it further enacted, That if any Person or Persons shall demand or take any greater Fee or Fees for any of the Services aforesaid, than is by this Law provided, he or they shall forfeit and pay to the Person or Persons injured, the Sum of *ten Pounds* for every Offence, to be recovered in any Court proper to hear and determine the same.

Limitation.

This Act to continue and be in Force for the Space of five Years from the Publication thereof, and from thence to the End of the next Session of the General Court, and no longer.

C H A P. II.

An Act in further Addition to the Act for Limitation of Actions and for avoiding Suits in Law, where the Matter is of long Standing.

Preamble.

WHEREAS by a Law of this Province, Intituled, "An Act in further Addition to the Act for Limitation of Actions, and for avoiding Suits in Law where the Matter is of long Standing," made and passed in the *Thirty-first Year* of his present Majesty's Reign, the Time limited for Commencing all Actions of Account and upon the Case, excepting such as are excepted in another Act, Intituled, "An Act, in Addition to and for the Explanation of an Act Intituled An Act for Limitation of Actions and avoiding Suits at Law where the Matter is of long Standing," made and passed in the *twenty-second Year* of his present Majesty's Reign; will expire the last Day of March next: And whereas the Continuance of the War, and great Numbers of Men that are

are and may hereafter be in his Majesty's Service, will make it necessary that some further Time may be allowed for the bringing some Kind of Actions :

Be it therefore enacted by the Governor, Council and House of Representatives, That the Time for commencing of Actions of the Case upon Notes of Hand, or upon Book Accounts, limited by said Act of the Twenty-second, or by said Act of the Thirty-first Year of his present Majesty's Reign, shall be and is hereby extended to the last Day of March, which will be in the Year of our Lord One Thousand seven Hundred and sixty-three ; and no Suit hereafter to be brought in such Cases, shall be barred if commenced before the Expiration of said Term:

Time for bringing Actions of the Case to be extended.

And that this Law may be more generally known :

Be it further enacted, That the Act intituled, *An Act for the Limitation of Actions, and for avoiding Suits in Law where the Matter is of long Standing*, made in the Thirteenth Year of the present Reign ; the aforesaid Act intituled *An Act in Addition to and for the Explanation of an Act intituled An Act for the Limitation of Actions and avoiding Suits at Law where the Matter is of long Standing*, made and passed in the Twenty-second Year of the present Reign ; and this Act shall be read by the Clerk of each Town and District, at their Anniversary Meetings in March and May annually ; and the Justices of the several Courts of Common Pleas within the respective Counties, shall cause the same to be publicly read at the Opening of their Courts from Time to Time from the Publication of this Act, and until the last Day of March, One Thousand seven Hundred and sixty three.

This Act to be read in Towns and Districts.

Reviv'd and Continu'd 'till July 1. 1767.

C H A P. III.

An Act Relating to Ferries.

WHEREAS there are several Places within this Province where Country Roads heretofore have been, or hereafter may be laid over Rivers which are not Fordable, some of them the whole Year, others Part of the Year, and where Bridges cannot be erected without great Cost and Charge, and no Persons will undertake to keep Ferries at said Places, by which Means Travellers and other Persons are greatly interrupted in their Business :

Preamble.

For Remedy whereof,

Be it enacted by the Governor, Council and House of Representatives, That the several Towns and Districts within this Province where (in the Judgment of the Quarter Sessions) it is necessary to set up Ferries as aforesaid, said Towns and Districts shall take effectual Care to provide a suitable Person or Persons to keep and attend said Ferries, at such Times in the Year as it may be necessary ; which Persons shall be Licenced by the Justices in Quarter Sessions ; said Persons to give Bond for the faithful discharge of

Towns to provide Persons to keep and attend Ferries.

[L I]

their

Penalty for
Default.

Towns and
Districts fur-
ther impow-
ered relating
to Ferries, as
the Sessions
shall order.

Penalty for
Towns and
Districts that
shall neglect.

How Fines
are to be dis-
posed of.

Limitation.

their Place, and all such Ferry-men are hereby enjoined to keep a good Boat or Boats in good Repair, suitable to the Waters they are to ferry over, also give due Attendance on Passengers, on Penalty of *five Shillings* for every Default of Non-attendance; and for want of a good Boat to be kept in Repair, to pay *five Pounds*; and the Fairs of the respective Ferries to be settled by said Courts, having Regard to the Difficulty of maintaining the same.

Be it further enacted, That if any such Ferry may be necessary across any River where one Town or District join said River on one Side, and another Town or District on the other Side; in such Case, the said Towns and Districts shall either jointly or alternately provide such Person or Persons to keep such Ferry as said Court shall order.

Be it further enacted, That the several Towns and Districts that shall neglect or refuse to provide suitable Persons to keep Ferries as aforesaid, shall forfeit and pay the Sum of *ten Pounds* per Month, for each Month's Neglect: All Fines and Forfeitures arising by this Act, shall be one Moiety thereof to him or them that shall inform or sue for the same, the other Moiety to be paid into the Province Treasury; to be recovered in any Court proper to try the same.

This Act to continue and be in Force *five Years* from the first Day of *May* next, and no longer.

C H A P. IV.

An Act for the better Regulating the Choice of Petit Jurors.

Select-Men of
each Town to
take a List of
Persons liable
to serve as
Petit Jurors &c
and lay the
same before
their Towns,
at a Meeting
call'd for that
Purpose.

BE it enacted by the Governor, Council and House of Representatives, That the Select-Men of each Town within this Province, shall within their respective Towns sometime before the tenth Day of *April* next, take a List of the Persons liable by Law, and which they shall judge able and well qualified to serve on the Petit Juries, and lay the same before the Town at a Meeting in *May* next to be called for that Purpose, and the Towns shall respectively at such Meeting select out of the List one Quarter of the Number so laid before them, such as they judge most suitable to serve as Jurors at the Superiour Court of Judicature, Court of Assize and General Goal Delivery, and put their Names written on separate Pieces of Paper in one Box, and the Remainder of such of them as the Town shall think suitable in the same Manner into another Box, to serve as Jurors in the Inferiour Court of Common Pleas and Court of General Sessions of the Peace, to be provided by the Select-Men for that Purpose, and deliver the same to the Town Clerk, to be by him kept under Lock and Key,

And be it further enacted, That when at any Time after the first Day of *June* next, during the Continuance of this Act, any *Venire Facias* shall issue

Petit Jurors.

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issue forth for the Choice of Petit Jurors, and the Inhabitants of each Town shall be assembled for that Purpose, the Town Clerk, or one or more of the Select-Men in Case of his Absence or Sickness, shall carry into the Meeting the Box wherein the Names of those Persons are put who are designed to serve at the Court from whence the *Venire Facias* issued, which shall be unlock'd in the Meeting, and in the Presence of the major Part of the Select-Men (who are hereby enjoyned to be present) and the Constable who shall warn said Meeting, shall particularly notify them and the Town Clerk for that Purpose; and the Town Clerk, or in his Absence one or more of the Select-Men shall draw out so many Tickets as there are Jurors required by the *Venire*, who shall be the Persons that shall be returned to serve as Jurors; saving, That if any whose Names are so drawn are sick or otherwise unable to serve at that Time in the Judgment of the Town, their Names shall be returned into the Box, and others drawn in their Stead.

Said List to be carried in- to the Meet- ing, and as many Names drawn out by the Town- Clerk or Se- lect-men as there shall be Occasion for.

And to the Intent the same Persons may not serve too often, the Clerk or Select-Men who shall draw the Ticket or Name of any Person returned to serve as aforesaid, shall enter on the Back thereof the Date of such Draft, and return the same into the Box again, and said Person or Persons shall not be obliged (altho' drawn at any Time) to serve as Jurors oftner than once in three Years, and no Person who has served as a Petit Juror within two Years past, shall be obliged to serve again until three Years be compleated from the Time of his last serving, notwithstanding his Name's being drawn as aforesaid; and the Select-Men shall in the same Manner once in every Year during the Continuance of this Act, take a new List of such other Persons as may become suitable and qualified, and lay the same before the Town, whose Names being first by them allowed, shall be put into their respective Boxes in Manner as aforesaid: And as well that all may do Duty, as that the Deficiency that may have happened by Death or otherwise may be supplied at such Time, the Town may, if they think fit, make a new Regulation of the List before received, and transfer the Names from one Box to another, as they judge needful.

Persons to serve on Juries but once in three Years.

And whereas it often happens that the Persons returned to serve as Petit Jurors abscond, and the respective Constables are put to great Difficulty, and frequently prevented from notifying them:

Preamble.

Be it further enacted, That from and after the first Day of June next, and during the Continuance of this Act, the Clerks of the respective Courts in this Province, shall and hereby are obliged to issue out their *Venires* from their respective Offices thirty Days at least before the Return Day; and the respective Constables upon Receipt of the said *Venires* are hereby obliged to notify their Towns thereof, so that the several Meetings may be held six Days at least before the Sitting of the Court from whence the *Venire* issues, and the Constables are hereby directed in Case they cannot personally notify those who are so drawn, upon their leaving a Certificate of their being drawn, as aforesaid, with the Time and Place of their respective Court's Sitting, at the usual Place of such Person's Abode, four Days before the Sitting thereof, and it shall be deemed a sufficient Notification; and if any Person drawn and notified as aforesaid, shall neglect to attend and serve accordingly, unless reasonable Excuse be made to the Justices of the respective Courts, he shall be fined in a Sum not exceeding thirty Shillings; and if such Jurors belong to the Town of Boston, they shall be fined in a Sum not exceeding Ten Pounds for the Superiour Court only, to be divided between the Petit Jurors drawn as aforesaid, and serving at such Court.

Rules for No- tification and issuing *Venires*.

Penalty for Persons not attending as Jurors.

And

Method for
preventing
partial Jurors.

And be it further enacted, That the Justices of the respective Courts aforesaid are hereby directed upon Motion from either Party in any Cause that shall be tried after the first Day of June next, and during the Continuance of this Act, to put any Juror to answer upon Oath (whether returned as aforesaid or as Talis-man) "Whether he doth expect to gain or loose by the Issue of the Cause then depending? Whether he is any Way related to either Party; or hath directly or indirectly given his Opinion, or is sensible of any Prejudice in the Cause?" And if it shall then appear to said Court that such Juror does not stand indifferent in said Cause, he shall be set aside from the Trial of that Cause, and another appointed in his Stead.

Preamble.

And whereas it frequently happens that many of the Jurors so chosen to serve in the several Courts of Judicature within this Province, fail of Attendance, and by Reason of Challenges made by Parties to several of said Jurors, the Number of returned Jurors are too few to serve at said Court:

For Remedy whereof:

New Venires
to be issued
in Case.

Be it enacted, That from and after the first Day of June next, and during the Continuance of this Act, it shall and may be lawful for the Justices of the Courts aforesaid, when Sitting, and as they shall judge there is Occasion, to cause new Writs of Venire Facias to be forthwith issued out and directed to the Constables of the several Towns in the County in which said Court is held, for the Appointment and Return of so many good and lawful Men to serve upon the Jury at said Court as shall be directed in the Writ, which Jurors shall be forthwith appointed, and being notified and returned to the said Court, shall be and hereby are obliged to give their Attendance immediately, under the Penalty by this Act provided for Non-appearance of Jurors.

Preamble.

And whereas notwithstanding the Expiration of the Time limited for continuing an Act made and passed in the thirtieth Year of his Majesty's Reign, Intituled An Act for the better Regulating the Choice of Petit Jurors, sundry Towns have conformed themselves thereto:

Choice and
Return &c.
made in Con-
formity to the
Act of the
30th Year of
the present
Reign, to be
good and va-
lid.

Be it enacted, That the Choices and Returns of Petit Jurors already made or which hereafter may be made before the Commencement of this Act by such Towns in Conformity to the Act made and passed in the thirtieth Year of his Majesty's Reign, and the Verdicts given by such Jurors upon Causes to them committed; together with all Processess and Judgments already had and entered thereupon in any Court or Courts of Law, or which hereafter may be, are hereby held and adjudged good and valid, and are hereby confirmed notwithstanding the Discontinuance of the said Act made and pass'd in the thirtieth Year of said Reign.

Limitation.

This Act to continue and be in Force from the said first Day of May next, until the last Day of March, which will be in the Year of our Lord, One Thousand seven Hundred and sixty-seven.

C H A P. V.

An Act to prevent Damage being done on the Meadows lying in the Township of *Yarmouth* called *Nobscuffett-Meadow*.

WHEREAS many Persons frequently drive Numbers of Neat Cattle, Horses Sheep and Swine to feed upon the Beaches and Shores adjoining to Nobscuffett-Meadow in *Yarmouth*, between said Meadow and the Harbour, whereby the Ground is much broken and damnified, and the Sand blown on said Meadow and Lands adjoining, to the great Damage not only of private Persons in their Property, but also to the said Town in general; so far as relates to said Meadow, Harbour and the Lands adjoining :

Preamble.

Be it enacted by the Governor, Council and House of Representatives, That from and after the last Day of *March* Instant, no Person or Persons shall presume to turn or drive any Neat Cattle or Horse-kind, or Sheep or Swine, to or upon any of the Beaches, Meadows or Shores at said *Nobscuffett* South of an East and West Line from *Fox-Hill*, so called, to the Sea Shore, and so to the extent of the Meadows and Beaches aforesaid in said *Yarmouth*, from the first Day of *March* to the last of *November* annually, upon the Penalty of ten Shillings a Head for Neat Cattle, Horses or Mares, and one Shilling for each Sheep and Swine that shall be turned and found on said Beaches, Meadows or Shores within the Time and Limits aforesaid; which Penalty shall be recovered by the Select-Men or Treasurer of the said Town of *Yarmouth*, or any other Person that shall inform and sue for the same; the one Half of the said Forfeiture to him or them that shall inform and sue for the same, the other Half to be to and for the Use of the Poor of the said Town.

Persons forbidden to drive Cattle &c. on the Beaches, Meadow or Shores at *Nobscuffett*, within certain Limits.

And be it further enacted, That if any Neat Cattle or Horse Kind, or Sheep or Swine, shall at any Time hereafter be found feeding on the said Beaches, Meadows or Shores South of an East and West Line from *Fox-Hill* to the Sea Shore aforesaid, that it shall and may be lawful for any Person to impound the same, immediately giving Notice to the Owners, if known, otherwise to give publick Notice thereof in the said Town of *Yarmouth*, and the two next adjoining Towns, and the Impounder shall relieve the said Creatures with suitable Meat and Water while impounded; and if the Owner thereof appear, he shall pay the Sum of two Shillings and six Pence to the Impounder for each Neat Beast and Horse-kind, and six Pence for each Sheep and Swine, and the reasonable Costs of relieving them, besides the Pound-keeper's Fees: And if no Owner appear within the Space of six Days to redeem the said Cattle or Horse-kind, Sheep or Swine so impounded, and to pay the Costs and Damage occasioned by impounding the same; then and in every such Case, the Person or Persons impounding such Cattle or Horse-Kind, Sheep or Swine, shall cause the same to be sold at publick Vendue, to pay the Costs and Charges arising about the same (public Notice of the Time and Place of such Sale to be given, in the said Town of *Yarmouth* forty-eight Hours before-hand) and the Overplus, (if any there be,) arising by such Sale, to be returned to the Owner of such Cattle or Horse-kind, Sheep or Swine at any Time within twelve Months next after, upon

Cattle to be Impounded in Case.

Cattle to be sold in Case.

his demanding the same; but if no Owner appear within the said twelve Months, then the said Overplus shall be, one Half to the Party impounding, and the other Half to the Use of the Poor of the said Town of Yarmouth.

Officers to be
chosen to see
this Act carri-
ed into Exe-
cution.

Be it further enacted, That the said Town of Yarmouth at their Meeting in March annually for the Choice of Town-Officers, be authorized and empowered to chuse one or more meet Person or Persons, whose Duty it shall be to see this Act observed, and to prosecute the Breakers thereof, and who shall be sworn to the faithful Discharge of their Office; and in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay for the Use of the Poor of said Town of Yarmouth the Sum of forty Shillings; and upon such Refusal said Town from Time to Time to proceed to a new Choice of such Officer or Officers.

Proviso.

Provided nevertheless, and it is hereby declared, That this Act shall not be construed so as to restrain any Person or Persons on the Whaling or Fishing Business from turning their Horses on the Piece of Common near said Meadows, in Case they confine such Horses to the said Common.

Limitation.

This Act to continue and be in Force until the last Day of March in the Year of Our Lord One Thousand seven Hundred and seventy, and no longer.

CHAP VI.

An Act for reviving and continuing sundry Laws that are expired and near expiring.

Sundry Laws
revived and
continued.

WHEREAS the several Acts herein after-mentioned, which are now expired or near expiring, have been found useful and beneficial, viz. An Act made in the twelfth Year of his present Majesty's Reign, Intituled An Act to prevent the unnecessary Journeying of the Members of the General Court: An Act made in the fourteenth Year of his present Majesty's Reign, Intituled, An Act for Explanation of and Supplement to the Act referring to the Poor, &c. An Act made in the fifteenth Year of his present Majesty's Reign, Intituled, An Act to Retrench the extraordinary Expence at Funerals: Four Acts made in the sixteenth Year of his present Majesty's Reign; One Intituled, An Act for making more effectual an Act Intituled, An Act for Regulating the Militia: Another Intituled, An Act in Addition to the several Acts for Regulating the Assize of Cask, and preventing Decoit in the packing of Fish, Beef and Pork for Sale: Another Intituled, An Act to prevent Gaming for Money or other Gain: The other Intituled, An Act to prevent unnecessary Law Suits: An Act made in the Eighteenth Year of his present Majesty's Reign Intituled, An Act to prevent unnecessary Expence in Suits at Law: Four Acts made in the twentieth Year of his present Majesty's Reign; One Intituled, An Act in further Addition to an Act for High Ways: Another Intituled, An Act to prevent the firing of Guns charged with Shott or Ball in the Town of Boston: Another Intituled, An Act more effectually to prevent profane Cursing and Swearing: The other, Intituled An Act to enable the Proprietors of private Ways to repair them in an equal Manner:

Manner : *An Act made in the twenty-second Year of his present Majesty's Reign, Intituled An Act to prevent Damage being done on the Beach and Meadows in Plymouth adjoining to said Beach, commonly known by the Name of Plymouth-Beach : An Act made in the twenty-fourth Year of his present Majesty's Reign, Intituled An Act to empower the Proprietors of the Meeting-House in the first Parish in Salem where the Reverend Mr. John Sparhawk now officiates ; and also the Proprietors of the Meeting-House in the third Parish in Newbury where the Reverend Mr. John Lowell officiates, to raise Money for defraying Ministerial and other necessary Charges : And likewise an Act made in the thirtieth Year of his present Majesty's Reign, Intituled An Act for preventing the unnecessary Destruction of Alewives in the Town of Sandwich.*

Be it therefore enacted by the Governor, Council and House of Representatives, That such of the before-mentioned Acts as are expired (with all and every Article, Clause, Matter and Thing therein respectively contained) be and hereby are revived, and shall be in Force from the twenty-ninth Day of March One Thousand seven Hundred and sixty, to the twenty-ninth Day of March One Thousand seven Hundred and seventy : And such of said Acts as are near expiring, are hereby continued, and shall be in Force 'till the said twenty-ninth Day of March One Thousand seven Hundred and seventy, and no longer.

Revived and continued to March 29. 1770.

[*The six foregoing Acts were Published March 29, 1760.]*

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England : Begun and Held at Boston upon Wednesday the thirtieth Day of May 1759, and from thence continued by sundry Prorogations and Adjournment to Wednesday the sixteenth of April following, and then met.

CHAP. VII.

An Act to prevent Damage being done on a Beach at Monument-Ponds in the Township of Plymouth lying between the Lands of the late Thomas Clark, and Joseph Bartlet, deceased, and on a certain Tract of Marshy Ground lying under Water there.

WHEREAS Cattle for Years past have been suffered to feed on said Beach, by which Means it has been greatly lowered, and the Sand of the same blown into a Brook adjoining which issues out of a Fresh-
Preamble.

Fresh-Pond, into which Quantities of Alewives formerly used to pass to cast their Spawn; as also on a great Part of said Meadow, thereby preventing the Fish passing up to Spawn, and occasioning the Overflowing of said Meadow, to the Damage of the Proprietors of the said Lands and to the Publick.

Powers granted to the Proprietors of said Beach and Marsh.

Be it enacted by the Governor, Council and House of Representatives, That from and after the tenth Day of May next, the Proprietors of said Beach and Marsh shall have full Power at any Meeting by them called to agree upon lowering and keeping down the aforesaid Brook as by a major Vote of said Propriety at any such Meeting they shall think proper, and that the Charges arising by the same shall be borne from Time to Time by each Proprietor in Proportion to their respective Interests.

Penalty for turning neat Cattle, Horse-kind or Sheep on said Beach or Meadow.

And be it further enacted, That no Person or Persons shall presume to turn or drive any Neat Cattle, Horse Kind or Sheep upon the aforesaid Beach or Meadow adjoining, on the Penalty of ten Shillings per Head, for Neat Cattle or Horses, and three Shillings for each Sheep so turned or found upon said Beach or Meadow, which Penalty shall be recovered by any Person that shall inform or sue for the same, one Half of the Forfeiture to him or them that shall inform and sue for the same, the other Half for the Use of the said Proprietors.

Cattle to be impounded in Case.

And be it further enacted, That if any Neat Cattle Horse Kind or Sheep shall at any Time be found feeding on said Beach or Meadow it shall be lawful for any Person to impound the same, immediately giving Notice to the Owner or Owners of the same, (if known) otherwise to give publick Notice thereof in the Town of Plymouth aforesaid, and the Impounder shall relieve said Creatures with suitable Meat and Water while impounded, and if the Owner thereof appear he shall pay two Shillings and six Pence for each Neat Beast or Horse Kind, and eight Pence for each Sheep, and the reasonable Cost of relieving them, besides the Pound-keeper's Fees, and if no Owner appear within the space of three Days to redeem the said Cattle, Horse Kind or Sheep so impounded and to pay the Cost and Damage occasioned by Impounding the same, then and in every such Case the Person or Persons impounding such Cattle, Horse Kind or Sheep shall cause the same to be sold at publick Vendue, and pay the Cost and Charges arising about the same (publick Notice of the Time and Place of such Sale being given in the said Town of Plymouth and the two Neighbouring Towns forty-eight Hours before the Sale) and the Overplus if any there be, arising by such Sale to be returned to the Owner or Owners of such Cattle, Horse Kind or Sheep at any Time within two Months next after such Sale, upon his demanding the same, but if no Owner appears within two Months, then the said Overplus shall be one Half to the Person impounding, and the other Half to the Use of the said Proprietors.

Cattle &c. to be sold, in Case

Proviso.

Provided, That nothing in this Act shall be construed to prevent the Owners of said Beach and Meadow from granting Liberty to any of their Propriety to allow any of the Cattle, Horse Kind or Sheep of the said Proprietors to go upon said Beach or Meadow, as they shall order at any of their legal Meetings.

This

This Act to continue and be in Force for the space of seven Years from Limitation. the tenth Day of May next, and no longer.

[The foregoing Act was Publish'd April 28. 1760.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* : Begun and Held at *Boston*, upon Wednesday the twenty-eighth Day of *May*, 1760.

C H A P. VIII.

An Act in Addition to an Act Intituled, *An Act for the better Regulating the Choice of Petit Jurors.*

WHEREAS in and by an Act made and pass'd in the present Year Preamble. of His Majesty's Reign, Intituled, An Act for the better Regulating the Choice of Petit Jurors ; It is provided, That the Select-Men of each Town within this Province should sometime before the tenth Day of April then next, take a List of the Persons liable by Law, and which they should judge able and well qualified to serve on the Petit Juries, and lay the same before the Town at a Meeting in May then next, in order to the Town's proceeding thereon, according to the Directions of the said Act : And whereas in many Towns it hath happened either thro' Inadvertence or otherwise, that no such List hath been taken by the Select-Men within the Time limited by the said Act as aforesaid ; by Means of which Neglect, Doubts and Controversies may arise, unless prevented by the Authority of this Court :

Be it therefore enacted by the Lieutenant Governor, Council and House of Representatives, That the Time for taking such Lists by the Select-Men, and for their respective Towns Proceedings thereon, be extended to the last Day of July next : And that in every Town where the Select-Men shall have taken such List and the Town shall have proceeded thereon according to the said Act, either on or before the said last Day of July next ; the same Proceedings shall be held valid and good to all Intents and Purposes whatsoever.

And be it further enacted, That in every Town where no such List as is before-mentioned hath been as yet taken by the Select-Men ; if they shall neglect to take such List and lay the same before the Town 'till after the last Day of July next ; every Select-Man so neglecting his Duty, shall forfeit and pay the Sum of three Pounds, for the Use of the County in which he dwells at the Time of such Neglect, to be recovered by Action or Information brought by the Treasurer of such County before any of His Majesty's Courts of Record within the same.

Penalty for Neglect.

C H A P. IX.

An Act for reviving and continuing fundry Laws that are expired and near expiring.

Sundry Laws
revived and
continued.

WHEREAS the several Acts herein after mentioned, which are now expired or near expiring, have been found useful and beneficial, Namely, Two Acts made in the eighteenth Year of his present Majesty's Reign; One Intituled, An Act to prevent Mischief being done by unruly Dogs: The other Intituled, An Act to prevent Neat Cattle and Horses running at large and feeding on the Beaches adjoining to Eastern Harbour-Meadows in the Town of Truro: And one other Act made in the eighteenth and nineteenth Year of said Reign, Intituled, An Act to prevent unnecessary Cost being allowed to Parties and Witnesses in the several Courts of Justice within this Province: And one Act made in the twenty-second Year of said Reign, Intituled, An Act to prevent Damage being done on the Beach and Meadows in Plymouth adjoining to said Beach, commonly known by the Name of Plymouth-Beach: Three Acts made in the twenty-third Year of said Reign; One Intituled, An Act against diminishing or Counterfeiting Money: One other Intituled, An Act in Addition to and for rendering more Effectual An Act for the restraining the taking excessive Usury: The other Intituled, An Act to prevent Stage-Plays and other Theatrical Entertainments: An Act made in the twenty-fourth Year of said Reign, Intituled, An Act for the better Regulation of the Course of Judicial Proceedings: An Act to prevent the Disturbance given the General Court by the passing of Coaches, Chaises, Carts, Trucks and other Carriages by the Province Court-House: Also an Act made and passed in the twenty-ninth Year of his present Majesty's Reign, Intituled, An Act for inlisting the Inhabitants of Dorchester, Weymouth and Charlestown, into His Majesty's Service for the Defence of Castle-William, as Occasion shall require:

Their Conti-
nuation for
ten Years
from the 1st
of July 1760.

Be it therefore enacted by the Lieutenant Governor, Council and House of Representatives, That such of the before-mentioned Acts as are expired (with all and every Article, Clause, Matter and Thing therein respectively contained) be and they hereby are revived: And such of said Acts as are near expiring, are continued; and all the said Acts shall be in Force from the first Day of July next, for the Space of ten Years, and to the End of the then next Session of the General Court, and no longer.

C H A P. X.

An Act for the more easy Division and Distribution of Intestate Estates.

Preamble.

WHEREAS it often happens that Persons dying Intestate, leave their Real Estate, or some Part of it, lying in Common and Undivided with the Real Estate of some other Person, whereby the Division or Distribution of such Estate by the Judge of Probate to and among the Heirs,

Heirs, is impeded and delayed, to the great Damage and unnecessary Expence of such Heirs :

Be it therefore enacted by the Lieutenant-Governor, Council, and House of Representatives, That the Respective Judges of Probate within this Province be, and hereby are directed and empowered within their several Counties, when they make out their Warrants for the Division of any Real Estate of any Person dying Intestate, to and among his Heirs, or for setting off the Widow's Thirds, where such Estate or any Part thereof lies in Common or Undivided with the Real Estate of any other Person, to direct the Committee named in such Warrant, first to sever and divide the said Intestate Estate from the Estate with which it lies in Common as aforesaid ; The said Committee to be under Oath for the faithful Discharge of this Trust ; and the Parties concerned on both Sides to be timely notified to be present, if they see Cause ; and such Division so made and accepted by the Judge, and duly Recorded in the Register's Office for the same County, shall be binding on all Persons concerned.

Judges of Probate Power as to the Division and Distribution of Intestate Estates

Provided, That where any Minors or Persons *non Compos*, are interested in either of said Estates, Guardians shall be appointed over them, before any such Division is made. *Provided also,* That before the Order for such Division issue, it be made appear to the respective Judges of Probate, that the several Persons interested in such Estate, if living within the Province or the Attorneys of such as are absent and have Attorneys residing within this Province, have been duly notified of such Petition, and have had Opportunity to make their Exceptions to the same.

Provido.

This Act to continue and be in Force for the Space of two Years from Limitation: the twentieth of July next; and no longer.

Reviv'd and Continu'd till July 1. 1770.

[*The three foregoing Acts were Published June 23. 1760.*]



Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-eighth Day of *May*, 1760. And from thence continued by Prorogations to Wednesday the seventeenth Day of *December* following, and then met.

CHAP. I.

An Act for reviving and continuing sundry Laws that are expired and near expiring.

WHEREAS the several Acts hereinafter mentioned, which are now Sundry Laws expired or near expiring, have been found useful and beneficial, revived and continued. namely, one Act made in the fourteenth Year of the Reign of King George the Second, Intituled, An Act in further Addition to an Act for regulating of Fences, &c.

One Act made in the fifteenth Year of said Reign, Intituled *An Act to prevent unnecessary Petitions to the Great and General Court.*

One Act made in the sixteenth Year of said Reign, Intituled *An Act in Addition to the several Laws of this Province relating to the Support of poor and indigent Persons.*

Two Acts made in the twentieth Year of said Reign ; one Intituled *An Act to prevent the Destruction of the Meadow called Sandy-Neck Meadow in Barnstable, and for the better Preservation of the Harbour there.* The other Intituled, *An Act to prevent the Destruction of Wild Fowl.*

Two Acts made in the twenty-second Year of said Reign, one Intituled, *An Act to prevent Damage by Fire in the Town of Boston and Charlestown ;* The other Intituled, *An Act to prevent Damage being done on the Beach in Biddeford, and Meadows adjoining to said Beach, commonly known by the Name of Winter-Harbour-Beach.*

Three Acts made in the twenty-third Year of said Reign, one Intituled, *An Act for the punishing such Offenders as shall be any way concerned in contriving, Writing or sending any incendiary or menacing Letters, in order to extort Sums of Money, or other Things of Value from any of his Majesty's good Subjects :* One other Intituled *An Act to prevent the unnecessary Destruction of Alewives in the Town of Middleborough :* The other Intituled *An Act to prevent any Persons obstructing the Fish in their passing up into Monaquot-River within the Town of Braintree.*

One Act made in the twenty-eighth Year of said Reign, Intituled, *An Act for appointing Assayers of Pot-Ash and Pearl-Ash.*

Three Acts made in the thirty-first Year of said Reign, one Intituled, *An Act in Addition to an Act Intituled An Act in Addition to the Act for providing of Pounds, &c.* One other Intituled *An Act to prevent Neat Cattle Horses and Sheep running at large and feeding on the Beaches between Wells and Ogunquit-Harbours in the Town of Wells, and to prevent the mowing of the same :* And the other Intituled, *An Act further to exempt Persons commonly called Quakers and Annabaptists, from paying Ministerial Taxes :*

All which Acts are expired or near expiring :

Their Continuation for ten Years from the 30th of January 1761, to 30th Jan. 1771.

Be it therefore enacted by the Governor, Council and House of Representatives, That such of the before-mentioned Acts as are expired (with all and every Article, Clause, Matter and Thing therein respectively contained) be and hereby are revived, and shall be in Force from the thirtieth Day of January current, and until the thirtieth Day of January One Thousand seven Hundred and Seventy one ; and the others of said Acts that are near expiring, are hereby continued, and shall be in Force until the thirtieth Day of January One Thousand seven Hundred and Seventy one, and no longer.

CHAPTER II.

An Act for allowing necessary Supplies to the Eastern-Indians, and for Regulating Trade with them, and preventing Abuses therein.

Preamble.

WHEREAS the Indians in the Eastern Parts of this Province have many Years since Recognized their Subjection and Obedience to the Crown of Great-Britain, and have their Dependance upon this Government for Supplies of Cloathing, Provisions and other Necessaries :

To

Trade with the Indians.

To the Intent therefore that they may be furnished with the same at such easy Rates, as may engage them to a firm Adherence to his Majesty's Interest :

Be it enacted by the Governor, Council and House of Representatives, That Provisions, Cloathing and other suitable Supplies for a Trade with the Indians be procured with the several Sums that have been, now are, or shall hereafter be granted for that Purpose by the General Court, and applied from Time to Time for supplying the said Indians as aforesaid, by such Person or Persons as shall be annually chosen by this Court, who shall proceed according to the Instructions they shall receive from this Court, or from the Commander in Chief for the Time being, by and with the Advice of the Council, on any Emergency in the Recess of this Court ; provided such Instructions and Directions be consistent with such Instructions as are or may be given by the General Court ; and all Supplies of Cloathing, Provisions, and other Necessaries, shall be lodged at such Places in the Eastern Parts of this Province, and elsewhere as the General Court have or may hereafter order.

Indians to be supplied by Persons chosen by the Court, agreeable to Instructions.

And be it further enacted, That a suitable Person be appointed by this Court for each of the Places where any of the Goods aforesaid are lodged, as Truck Masters for the Management of the Trade with the Indians ; and to be paid for his Service such Sum or Sums as this Court shall judge reasonable for his Allowance in said Capacity ; and in Case of the Death or Removal of any one or more of said Truck-Masters by Mismanagement of said Trust, during the Recess of the Court, another shall be put in his Room, by the Commander in Chief, with the Advice of the Council ; which Truck Masters shall be under Oath, and give sufficient Security to the Province Treasurer for the faithful Discharge of their Office, and shall observe the Instructions which from Time to Time shall be given them, and shall not trade for themselves (only in the Capacity of a Truck-Master) with the Indians, or any other Person or Persons ; neither may any Officer or Soldier residing at or within any of the Truck-Houses, or any other Person in the Pay of this Government, either on Account of themselves or any other Person or Persons, presume to trade with the Indians on board any Ship or Vessel or Transport in those Parts, for any of the aforementioned Goods ; nor shall it be lawful for any other Person or Persons to sell, truck, barter, or exchange with any Indian or Indians, any strong Beer, Cyder, Wine, Rum, Brandy, or any other strong Liquor, Cloathing, or any other thing whatsoever the Indians may want, on Penalty of *forty Shillings*, or six Months Imprisonment for each and every Offence above mentioned.

To be paid as the Court shall judge reasonable.

Truckmasters to be under Oath and give Security.

Not to trade for themselves.

No other Persons to trade with the Indians.

And be it further enacted, That the said Truck-masters shall sell the Goods to the Indians at the Prices set in the Invoices sent them from Time to Time by the Commissary, which shall be the same which he gave for the Goods in the Town of *Boston*, with a reasonable Advance thereon, sufficient to pay the Charge of Transportation, and all other Charges arising thereon ; and shall allow the Indians for their Furs and other Peltry as the Market shall be at *Boston*, according to their several Qualities by the latest Advices that they shall receive from the said Officer, who shall send the Prices to the several Truck-masters at least twice in a Year, *viz*, every Spring and Fall : And the Truck-masters may supply the Indians with Rum in moderate Quantities as they shall in Prudence judge convenient and necessary ; and in Case any of the Truck-masters shall presume to sell any Goods at higher Rates than they are set at by the Government, or shall charge to the

Commissary to set Prices at which Goods are to be sold.

Prices of Furs regulated.

Trade with the Indians.

the Government more for any Furs or other Goods than they allowed the Indians therefor, such Truck-masters being convicted thereof, shall forfeit and pay the Sum of *One Hundred Pounds*, and shall thenceforth be altogether disabled to hold or exercise any Office within this Government : And the more effectually to prevent or detect any such pernicious Practices, each and every Truck-master when and so often as he shall settle and adjust his Account with the said Officer appointed by this Court for supplying the Indians, shall make Oath before the said Officer ; who is hereby authorized and appointed to administer the same, in Manner following, viz.

Truckmasters
Oath.

You A. B. do Swear, that the Goods committed to you for the Supply of the Indians, have been sold at no higher Rates than they were set at by the Government ; and that you have charged for the Furs and Goods you have made Returns of no more than you have paid the Indians for them.
So help you GOD.

And for the better Discovery of such ill disposed Persons who through Greediness of filthy Lucre, and regardless of the publick Good, shall privately sell or deliver any Sort of strong Drink to any Indian or Indians, of which it is difficult to obtain positive Evidence, other than the Accusation of such Indian or Indians :

Method of
Conviction of
Persons sel-
ling to Indi-
ans contrary
to this Act.

Be it further enacted, That the Accusation and Affirmation of any Indian or Indians (the Accuser and accused being brought Face to Face at the Time of Trial) shall be accounted and held to be a legal Conviction of the Persons accused of giving, selling or delivering Wine or any other strong Drink or Liquors to such Indian or Indians, unless the Person accused shall acquit himself upon Oath, which the Court in all such Cases are hereby impowred to administer in the Form following, viz.

Form of the
Oath.

You A. B. do Swear, that neither your self, nor any other by your Order, general or particular Assent, Privy. Knowledge or Allowance, directly or indirectly, did give, sell or deliver any Wine, Cyder, Rum or other strong Liquors or Drink, by what Name or Names soever called or known, unto the Indian by whom and whereof you are now accused.
So help you GOD.

Further Me-
thod of Con-
viction.

And be it further enacted, That upon the Complaint or Information of any other Person for the Breach of this Law, there being such Circumstances as render it highly probable in the Judgment of the Justice before whom the Trial is, that the Person complained of is guilty of the Breach of the said Act ; then and in every such Case, unless the Defendant shall acquit himself upon Oath as aforesaid, to be administered to him by the Justice before whom the Trial shall be) the same shall be accounted a legal Conviction of the Defendant's giving, selling or delivering of Wine or other strong Liquors, of which he or they shall be accused, and he or they shall pay and suffer the Penalty already by this Act provided ; but in Case the Defendant shall acquit himself upon Oath, to be administered to him as aforesaid, that then he shall recover against the Complainant double his Cost occasioned by such Prosecution.

Accusation of
an Indian
good in Case.

And be it further enacted, That upon the Accusation of an Indian, or Complaint of any other Person to any of his Majesty's Justices of the Peace within

Harwich Meadows.

within this Province, against any Person for selling, giving or delivering any Wine, Rum, or other strong Liquors to any Indian, contrary to the true Intent and Meaning of this Act, the Justice may tender to the Person accused or complained of the aforesaid Oath (unless there be such other Circumstances concurring as render it highly probable in the Opinion of the Justice that the Person accused is guilty) which if he refuses to take, he shall bind him in a Bond of Recognizance, not exceeding *One Hundred Pounds* with Sureties to answer the same at the Court of General Sessions of the Peace next to be held in the County where the Offence is committed; but if the Person accused shall acquit himself upon Oath as aforesaid, the Justice shall dismiss the Person, and allow him double his Cost against the Complainant occasioned by such Prosecution.

And be it further enacted, That if any Person or Persons shall hereafter be convicted of false Swearing in any Case in this Act mentioned, he or they shall be liable to the same Pains and Penalties as is already by Law provided against wilful Perjury. False Swearing punished as Perjury.

This Act to continue and be in Force for the Space of three Years from the Publication thereof and no longer.

C H A P. III.

An Act to prevent Damage being done on the Meadows and Beaches lying in and adjoining on the North Side of the Town of *Harwich* between *Skeket-Harbour* on the East, and *Quivet-Harbour* on the West.

WHEREAS many Persons frequently drive Numbers of Neat Cattle, Horses, Sheep and Swine to feed upon the Beaches, Meadows and Shores, adjoining to the North-side of *Harwich*, lying between *Skeket-Harbour* on the East and *Quivet-Harbour* on the West, whereby the Ground is much broken and damaged, and the Sand blown on said adjoining Meadows and Upland, to the great Damage not only of sundry private Persons in their Property, but also to the Inhabitants of said Town in general: Preamble.

Be it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act no Person or Persons shall presume to turn any Neat Cattle, Horse-kind, Sheep or Swine to or upon any of the Beaches, Meadows or Shores that lie on the North Side of the Town of *Harwich*, between *Skeket-Harbour* on the East, and *Quivet-Harbour* on the West, at any Time between the first Day of *April* and the last Day of *October* yearly, during the Continuance of this Act, on Penalty of paying for each Offence *Five Shillings* a-Head for Neat Cattle, Horses or Mares of one Year old or upwards, and *one Shilling* a-Head for each Sheep or Swine that shall be turned or found on said Beaches, Meadows or Shores within the Limits aforesaid, which Penalty shall be recovered by the Select-Men or Treasurer of the said Town of *Harwich*, or any Penalty for turning Creatures on the Beaches &c.

other Person that shall inform of and sue for the same; the one Half of said Forfeiture to him or them that shall inform of and sue for the same, the other Half to be to and for the Use of the Poor of said Town.

Creatures to
be impound-
ed.

To be sold if
not redeemed.

And be it further enacted, That if any Neat Cattle, Horse-kind, Sheep or Swine, shall at any Time hereafter be found feeding on the said Beaches, Meadows or Shores that lie between said *Skeket-Harbour* and said *Quivet-Harbour* in said *Harwich*, it shall and may be lawful for any Person to impound the same, immediately giving Notice thereof to the Owner if known, otherwise to give publick Notice thereof by posting the same up in some publick Place in said Town, and the two next adjoining Towns; and the Impounder shall relieve the said Creatures with suitable Meat and Water while impounded: And if the Owner thereof appear to redeem his impounded Creatures, he shall pay *one Shilling and six Pence* to the Impounder for each Neat Beast and Horse-kind, and *six Pence* for each Sheep and Swine, and the reasonable Cost of Relieving, besides the Pound-keepers Fees as by Law appointed for such Creatures; and if no Owner appear within the space of six Days to redeem the said Cattle, Horse-kind, Sheep or Swine so impounded, and to pay the Cost and Damage occasioned by impounding the same; then and in every such Case, the Person impounding such Cattle or Horse-kind, Sheep or Swine, shall cause the same to be sold at publick Vendue, and pay the Cost and Charges arising about the same, publick Notice of the Time and Place of such Sale to be given in the said Town of *Harwich*, and in the Towns of *Eastham* and *Yarmouth*, forty eight Hours before-hand, and the overplus (if any there be) arising by such Sale to be returned to the Owner of such Cattle or Horse-kind, Sheep or Swine, at any Time within twelve Months next after, upon his demanding the same; but if no Owner appear within the said twelve Months, then the said Overplus shall be one Half to the Party impounding such Cattle, Horse-kind, Sheep or Swine, and the other Half to the Use of the Poor of the said Town of *Harwich*.

Persons to be
chosen to see
to the due
Observance of
this Act.

And be it further enacted, That the said Town of *Harwich* at a Meeting of said Town called for that Purpose, or at their Meeting in *March* annually for the Choice of Town-Officers, be authorized and impowered to chuse one or more meet Person or Persons whose Duty it shall be to see to the due Observance of this Act, and to prosecute the Breakers thereof, and who shall be sworn to the faithful Discharge of their Office: And in Case any Person so chosen shall refuse to be sworn, he shall forfeit and pay *ten Shillings* for the Use of the Poor of said Town of *Harwich*, and upon such Refusal said Town from Time to Time to proceed to a new Choice of such Officer or Officers, until one or more Person or Persons will serve therein.

Proviso.

Provided, That nothing in this Act shall be construed to prevent the Owner or Owners of such Beach or Meadows, or any improving under them, from turning on their Horses they ride, or Cattle they improve in their Teams, to feed on said Beach or Meadows while they are cutting or carting their Hay off said Beach or Meadows adjoining.

Limitation.

This Act to continue and be in Force for the Space of ten Years from the Publication thereof, and no longer.

[*The three foregoing Acts were published February 31. 1761.*]

ACTS

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-eighth Day of *May* 1760. And from thence continued by Prorogations to Wednesday the twenty-fifth Day of *March* following, and then met.

C H A P IV.

An Act for preventing the stealing and clandestinely conveying Sheep away from the Island of *Martha's Vineyard* in *Dukes-County*.

BE it enacted by the Governor, Council and House of Representatives, That in every Town on the Island of *Martha's Vineyard* in *Dukes-County*, there shall be some meet Person some Time in *May* next, chosen to inspect all such Sheep as shall be there purchased to be transported off from said Island, which Person shall be sworn to the faithful Discharge of said Office: And no Person or Persons whatsoever, who shall after the tenth Day of *June* next, purchase any Sheep on the said Island of *Martha's-Vineyard*, in Order to transport them from thence, to any other Place, shall presume to carry them off, in any Vessel or Boat whatsoever, before he or they shall have presented them to and caused them to be viewed by the Inspector for the Town from whence they are to be transported, and shall have shewn to such Inspector a Certificate under the Hand of each and every Person of whom they shall have purchased said Sheep, declaring the Number, and particular Mark or Marks of all Sheep by them sold to such Person or Persons transporting them as aforesaid. And such Inspector is hereby authorized to make a fair Entry in a Book, to be kept for that Purpose, of the said Number and Marks of such Sheep, with the Christian and Sir Name, Occupation and Dwelling Place, as well of the Person or Persons of whom the same were last bought, as of the present Owners or Shippers; and also of the Master of the Vessel or Boat in which they are designed to be transported; and shall deliver a Certificate under his Hand of such Entry by him made, unto the Shipper, directed to the Master of such Vessel or Boat by Name: For which Entry and Certificate, the said Inspector shall demand and receive of the Purchaser the Sum of *One Shilling*, for every Score of Sheep therein mentioned, and so in Proportion for a greater or less Number.

Inspectors of Sheep to be chosen in *Martha's Vineyard*.

Inspectors Duty.

And be it further enacted, That if any Person or Persons shall after the Publication of this Act, presume to ship or transport from the aforesaid Island, any Sheep which have not been first viewed and entred

Penalty for taking off Sheep without Inspection

as aforesaid ; or if the Master or Commander of any Vessel or Boat, shall receive, take, or suffer to be received or taken any Sheep on Board the Vessel or Boat under his Command, in Order to transport them from off said Island, without such Certificate as aforesaid, or any other Sheep than what agree with the Description therein given, every Shipper or Master so offending shall forfeit and pay for each and every Sheep by him so received or taken on Board his said Vessel or Boat, the Sum of *Twenty Shillings*, one Moiety thereof to be to the Use of the Poor of the Town where the Offence is committed, and the other Moiety to him or them who shall inform and sue for the same by Action, Bill, Complaint, Information or Presentment of the Grand-Jurors, in any of his Majesty's Courts within this Province before whom the same may be Cognizable : Any Law, Usage or Custom to the contrary notwithstanding.

Inspectors to
inform of
Breaches of
this Act.

And the Inspector in each Town on the aforesaid Island, is hereby required to take Care that this Act be duly observed, and to inform of all Transgressions thereof.

Continuance.

This Act to be in Force for the Space of one Year from the tenth Day of *June* next ; and no longer.

Reviv'd and Continu'd till July 1. 1767.

CHAP. V.

An Act in Addition to an Act made and passed this present Year Intituled, *An Act to prevent Damage being done on the Meadows and Beaches lying in and adjoining to the North Side of the Town of Harwich, between Skeket-Harbour on the East, and Quivet-Harbour on the West.*

Eastham and Harwich directed to keep up Fence or Watch.

BE it enacted by the Governor, Council and House of Representatives, That the Town of *Eastham*, in Conjunction with the Proprietors of the Meadows and Sedge Ground lying to the Eastward of the Westernmost Point of Rocks in said *Harwich*, shall make and keep up a two Rail-Fence, during the Continuance of this Act, on or near the Place as usual, on the East Side of great *Skeket-Harbour*, beginning at the Land lately of *Nathaniel Freeman*, Esq; deceased, and thence extending Northerly on the Flatts or Sedge Ground near Half a Mile, or keep a Watch as the Proprietors of each Town shall agree.

Proviso.

Provided, That if at any Time any Neat-Cattle, Horses, Sheep or Swine shall be found on any of the said Meadows or Beaches within the Town of *Harwich*, which went through that Part of the Fence allotted to the Town of *Harwich* to erect and maintain, or at the Time when the said Town

Town of *Harwich* should keep a Watch, that in such Case it shall not be lawful to impound any of the Creatures belonging to the said Town of *Eastham*.

This Act to continue and be in Force for the Space of three Years from Continuance: the first Day of *May* this present Year, and no longer.

[The two foregoing Acts were Published April 21. 1761.] 3
The Town from 2 1761 3

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston* upon Wednesday the twenty-seventh of *May*, 1761.

CHAP. VI.

An Act establishing a Watch for the Safety and better securing the good Order of the Town of *Boston*.

WHEREAS the Town of *Boston*, have Petitioned this Court for their Aid by some Act to enable said Town by a Watch to secure themselves by Night, against Disorders and Damage from evil-minded Persons or otherwise: Therefore; Preamble.

Be it enacted by the Governor, Council and House of Representatives, That the Select-Men of the Town of *Boston*, for the Time being, be empowered and they are hereby authorized and empowered to appoint such a Number of their Inhabitants to be Watchmen by Night, in the Town of *Boston*, as they shall judge convenient, not exceeding thirty (the Town of *Boston* agreeing to defray the Charge) And the Select-Men shall appoint one of each Division of the Watch to be Head or Constable of that Part of the Watch, which Head is hereby required to keep an Account of their Doings, and how they find the State of the Town, and Report to the Select-Men once every Week, and oftner if required; which Watchmen shall have the same Power and be obliged to the same Service and Duty as given and required to and from the Watchmen of the several Towns of this Province in general by the Acts of the General Court of 11th of King *William*, Chap. VII. and of the 11th of Queen *Anne*, Chap. VI. Select-Men to appoint Watchmen, their Number not to exceed 30. Said Watchmen to be accountable for their Doings to the Select-Men.

And to render the Care and Labour of the said Watch, more effectually conducive to the Peace, Safety and good Order of said Town of *Boston*:

Be it further enacted, That all and every Person or Persons who shall oppose or resist the said Watchmen in the discharge of their Service and Duty, or strike, abuse, or wound them, or any of them, shall severally forfeit and pay for the Use of the said Town, to be applied towards discharging Penalty for opposing or resisting the Watch.

charging the Wages of the Watch, a Sum not exceeding *Five Pounds*, nor less than *Forty Shillings*, besides being liable to an Action for all Damages to the Person or Persons abused or wounded. And any two Justices of the Peace in the County of *Suffolk*, (*Quorum Unus*) are hereby authorized to hear and determine the same.

And for as much as considerable Numbers of dissolute Persons have sometimes Riotously met and opposed the Watch :

Watchmen
impowered to
demand Aid
&c. and Pe-
nalty for
refusing.

It is further declared and enacted, That the said Watchmen shall be authorized and impowered, and they hereby are authorized and impowered to demand Aid and Assistance, and all and every Person or Persons refusing to assist him or them of the Watch demanding Help, shall forfeit and pay a Fine of Forty Shillings, to and for the Use of the said Town of Boston, to be applied for the Payment of the Watch as aforesaid.

The several Forfeitures to be recovered by Plaint or Information.

Limitation.

This Act to continue and be in Force for the Space of three Years from and after the first Day of July Current, and no longer.

C H A P. VII.

An Act further empowering the Courts of General Sessions of the Peace in this Province to grant Licences in certain Cases, and thereby to prevent unnecessary Petitions to the General Court.

Justices of the
Court of Ge-
neral Sessions
impowered to
grant Licences
in Case.

BE it enacted by the Governor, Council and House of Representatives, That when it shall so happen that any Licenced Innholder or Retailer shall die before the Year be expired for which Licence shall have been granted, and the Widow of the Deceased, if such there be, or Children or other Representative, shall desire to exercise the said Employment in such Licenced House, the Remainder of the Year ; and where any Licenced Innholder or Retailer shall remove from a Licenced House, and the Purchaser or Occupier of such House, shall petition to be Licenced to be an Innholder or Retailer in the same House for the Remainder of the Year ; in every such Case it shall be lawful, and the Justices of the Court of General Sessions of the Peace, are hereby impowered, at any of the Terms appointed by Law for holding the same in such County, to grant Licence to such Person or Petitioner applying therefor, the Remainder of the Year ; *Provided*, such Person be suitably qualified therefor, and recommended in Manner as the Law directs.

Limitation.

This Act to continue in Force from the tenth Day of July Current, to the tenth Day of July, which will be in the Year of Our Lord, One Thousand Seven Hundred and sixty-five, and no longer.

CHAP. VIII.

An Act providing for the levying and collecting of Taxes in Plantations that are not incorporated.

BE it enacted by the Governor, Council and House of Representatives, Province or County Treasurer to issue a Precept for calling a Meeting of the Inhabitants of Plantations, &c. in Case. That when any Part or Proportion of any Province or County Tax shall be laid (by the Great and General Court, or by any Court of General Sessions of the Peace within this Province) on any Plantation not incorporated, the Treasurer of the Province, or of such County respectively, shall issue his Precept to some Justice of the Peace dwelling near to such Plantation, requiring him forthwith to grant his Warrant, directed to some principal Inhabitant of such Plantation requiring him to notify and warn the Inhabitants of such Plantation (being Freeholders) to meet at such Time and Place within the same, as in such Warrant shall be specified, in order to choose needful Officers for the Purposes hereafter mentioned; and such principal Inhabitant is hereby obliged to observe and obey the Warrant that he shall receive from said Justice, on the Penalty of forfeiting and paying the whole Sum that shall be ordered to be levied on such Plantation by either of the respective Treasurers Warrants aforesaid, to be recovered by Action of Debt by said respective Treasurers, in any of his Majesty's Courts of Record within this Province, proper to try the same: And such of said Inhabitants as shall then assemble, shall have Power, and they are hereby required to choose a Moderator and Clerk, as also Assessors and Collectors, for assessing and collecting such Plantations Proportion of such Province and County Tax (to be duly paid when collected by such Collectors to the Province or County Treasurer respectively) and such Clerk, Assessors and Collectors shall be under Oath (to be administered by the Moderator of such Meeting) for the faithful Discharge of their respective Trust; and shall have the same Allowance from such incorporate Plantations as such Officers are intituled unto by Law in Towns corporate; and in Case any Assessor or Collector so chosen, shall (after Notice of such Choice given him by the Moderator) refuse or neglect to appear and take such Oath, he shall be liable to the same Penalty which Assessors and Collectors in Towns corporate are liable to, in Case of such Refusal or Neglect.

And be it further enacted, That the Assessors so chosen and sworn, shall thereupon take a List of the Rateable Polls, and a Valuation of the Estates and Faculties of the Inhabitants of such Plantation, for a Rule by which to make such Assessment, and by which to judge of the Qualification of Voters in Meetings of the said Inhabitants thereafter to be holden, until other Valuation shall be made. Assessors to take a Valuation, &c.

And be it further enacted, That in Case the Inhabitants of any such Plantation shall neglect to assemble or being assembled, shall neglect to choose all such Officers as herein before are required, it shall be in the Power of the Court of General Sessions of the Peace in the County where such Plantation is, and the Justices of such Court are required to appoint some meet Persons (Inhabitants of such Plantation) to be Assessors and Collectors of such Taxes as aforesaid; who shall be duly sworn to the faithful Discharge of their respective Trust; and shall conform to the Directions and proceed by the Rules which Assessors and Collectors in Towns corporate are obliged to observe. Justices of the Court of General Sessions to appoint Assessors and Collectors in Case.

And

Assessors to
issue their
Warrants for
calling a Meet-
ing in March
annually &c.

And be it further enacted, That the Assessors who shall from Time to Time be chosen or appointed for such Plantation, shall have Power, and they are required to issue their Warrants for calling Meetings of the Inhabitants there in the Month of *March* annually, for choosing such Officers as aforesaid; who shall be sworn as aforesaid, and shall have the same Power, and be subject to the same Penalties as Assessors and Collectors in Towns and Parishes have, and are by Law liable to.

Continuance.

This Act to continue in Force during the Term of seven Years from the first Day of *August* next and no longer.

[*The three foregoing Acts were Published July 11. 1761.*]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-seventh Day of *May* 1761. And continued by sundry Prorogations unto Wednesday the thirteenth Day of *January* following, and then met.

C H A P. I.

An Act for the effectual preventing the Currency of the Bills of Credit of *Connecticut*, *New-Hampshire*, and *Rhode-Island*, within this Province.

Preamble.

WHEREAS Bills of Credit still continue Current within the Governments of *Connecticut*, *New-Hampshire*, and *Rhode Island*, and it is of great Importance to the Interest of the Inhabitants of this Province, and to the Interest of such of his Majesty's Subjects in Great-Britain and elsewhere, as have Trade and Commerce here, that the Currency of said Bills should be effectually prevented throughout this Government:

Penalty for
receiving Bills
of *Connecticut*,
New-Hamp-
shire & *Rhode-*
Island.

Be it therefore enacted by the Governor, Council and House of Representatives. That every Person within this Province, be and hereby is strictly forbidden to account, receive, take or pay any Bill or Bills of Credit of either of the Governments of *Connecticut*, *New-Hampshire* or *Rhode-Island*, in discharge of any Contract or Bargain, or for any valuable Consideration whatsoever; and that every Person who shall so account, receive, take or pay any of said Bills within this Province, shall forfeit the Sum of *Fifty Pounds* for every Offence, one Moiety thereof to his Majesty, his Heirs and Successors, to and for the Use of this Government,

Preventing Bills of other Governments.

ment, the other Moiety to him or them that shall sue for the same, to be recovered with full Cost of Suit by Action, of Debt in any of his Majesty's Courts of Record within this Province, or by Presentment of the Grand Jury.

And be it further enacted, That from and after the thirtieth Day of March, which will be in the Year of our Lord One Thousand seven Hundred and sixty two, every Person who shall be chose to serve in any Office in any of the Towns or Districts or Precincts of this Province, shall before his Entrance upon such Office, take the following Oath, to be administred by a Justice of the Peace, or where no Justice of the Peace shall be present, by the Town, District or Precinct Clerk, who is hereby impowered to administer the same, viz.

Officers to take an Oath

YOU A. B. do in the Presence of GOD, solemnly declare, that you have not since the thirtieth Day of March 1762, wittingly and willingly, directly or indirectly, either by your self or any for or under you, been concerned in receiving or paying within this Government, any Bill or Bills of Credit of either of the Governments of Connecticut, New-Hampshire or Rhode-Island.

Form of the Oath.

So help you GOD.

And where any Person chosen as aforesaid shall refuse or neglect to take the Oath aforesaid on tendering the same, the Town, District or Precinct shall proceed to the Choice of another Person in his Room; and where any Person shall be elected by any Town, District or Precinct into any Office, to the Non-acceptance or Refusal whereof a Penalty is by Law annexed, such Person neglecting or refusing to take the Oath aforesaid, shall be liable to the same Penalty as is by Law provided, for the Non-acceptance or Refusal of such Office.

And be it further enacted, That when any Person shall be chosen to represent any Town within this Province in the General Court or Assembly, such Person so chosen shall take the Oath aforesaid, and Return shall be made by the Select-Men upon the back of the Precept, that the Person so chosen hath taken the Oath required in the Act made and passed in the second Year of his Majesty King GEORGE the Second, Intituled *An Act for the effectual preventing the Currency of the Bills of Credit of Connecticut, New-Hampshire and Rhode-Island, within this Province*: And if any Person so chosen shall refuse or neglect to take the Oath aforesaid, such Refusal or Neglect shall be deemed a Refusal to serve as a Representative, and the Town shall proceed to the Choice of another Person in his Room.

Representatives to take the Oath.

And be it further enacted, That the Oath aforesaid, shall be administred to each of the Members of his Majesty's Council, every Year, at the same Time when the usual Oaths required to be taken by the said Members of his Majesty's Council shall be administred: And all Officers, Civil and Military within this Government, who shall be nominated or appointed, shall before they receive their respective Commissions, take the Oath aforesaid, and their respective Commissions shall be otherwise void: And all Persons elected into any Office by the General Assembly shall be deemed not qualified to enter upon the Execution of their respective Offices until they have taken the Oath aforesaid.

Councillors & all Civil and Military Officers to take the Oath.

Persons tak-
ing out Exe-
cutions to
take the Oath.

And be it further enacted, That no Execution shall be issued from the Office of any Clerk of any of the Inferiour Courts of Common Pleas, or of the Superiour Court of Judicature, for any Sum whatsoever, unless the Plaintiff or Plaintiffs (suing in his or their own Right, and dwelling within this Province) shall first take the Oath aforesaid, to be administred by a Justice of the Peace, or by the Clerk of the Court from which such Execution shall issue, and Certificate thereof shall be made on such Execution; and if any Execution shall issue, or go forth without such Certificate, the same shall be, and hereby is declared to be void; and no Licence shall be granted to, nor any Recognizance taken from any Taverner, Innholder or Retailer, by the Justices of any of the Courts of Session within this Province, until such Taverner, Innholder or Retailer shall have taken said Oath in Presence of the Court, or Certificate of his having so done from a Justice of the Peace, shall be presented to the Court.

Clerks Fees
for admini-
string the
Oath.

And be it further enacted, That for every Oath administred as aforesaid by the Clerk of any Court, he shall be allowed *three Pence*, and for every Certificate by him signed as aforesaid *three Pence* and no more, and the Cost and Charge of such Oath and Certificate shall be added to the Sum in the Execution required, to be levied accordingly.

Preamble.

And whereas it frequently happens that Persons who are intitled to take out Writs of Execution upon Judgments by them obtained, are absent out of this Province, or employed in his Majesty's Service in such Parts of it as are very remote from the Places where such Judgments are entred, and so cannot take the Oath by Law appointed to be taken before Executions are issued:

Wherefore for Remedy of these Inconveniencies :

Proviso for
Persons out of
the Province.

Be it enacted, That when any Person or Persons shall be absent from this Province, or employed in his Majesty's Service in such Parts thereof as are very remote from the Courts or Places where they recover Judgments, in all such Cases it shall be lawful for the Clerks of the Superiour Court of Judicature, Court of Assize and General Goal Delivery, and of the Inferiour Courts of Common Pleas, or other Courts of Law, to issue Writs of Execution (when applied for) upon Judgments recovered by such Person or Persons as are before mentioned, notwithstanding he or they have not taken the Oath appointed by this Act to be taken.

Their Ab-
sence to be
certified.

Provided nevertheless, That before Executions are issued as aforesaid, a Certificate in Writing under the Hand of any Justice of the Peace for any County in the Province, shall be delivered to the Clerk who issues the Execution, setting forth that at the Date of said Certificate the Person or Persons on whose Behalf Execution is applied for, is then out of the Province, or employed in his Majesty's Service as aforesaid.

This Act to continue and be in Force until the last Day of *March*, which will be in the Year of our Lord One Thousand seven Hundred and sixty seven.

C H A P. II.

An Act in Addition to the several Acts or Laws of this Province relating to Common Fields, to extend only to the County of *Hampshire*.

WHEREAS the minor Part of the Owners or Proprietors of Common Fields in the County of Hampshire, in some Instances have been and may be desirous of a Partition of such Field into two or more distinct Fields, from a Perswasion that their Shares or Lots might (if seperated and fenced off from the rest) be improved much more to their Advantage in some Manner different from That agreed on by the Majority: Preamble.

To the End therefore that such of the Owners as are or may be so minded, may not be unreasonably restrained by the rest from having such Partition:

Be it enacted by the Governor, Council and House of Representatives, That when any three or more of the Owners or Proprietors of Lots in any Common or General Field in said County, shall make Application in Writing under their Hands to the Proprietors of such Field (at any Meeting legally warned for that Purpose) to have a Part in such General Field by one common Fence divided and seperated from the rest to be improved as a distinct and seperate Field; in such Case, if the Proprietors who have the greater Part of the Interest of those who are present at such Meeting, shall withhold their assent to such Division or Partition or to a reasonable Establishment of the Proportion of the Divisional Fence between said Fields to be made and maintained by the Proprietors of each respectively, it shall be in the Power of the Justices of the Court of General Sessions of the Peace in that County upon Application to them made for that Purpose (after due Enquiry had touching the Expediency of such Partition, to cause the same to be made, and to assign to each Field, the Part and Proportion of the Divisional Fence that shall be erected and maintained by the Proprietors of such Fields respectively, such Partition and Assignment to be made by a Committee of five discreet and disinterested Persons under Oath) or the major Part of them, to be appointed by said Court.

In what Cases the Sessions may cause Partitions to be made.

Provided, That no Order for Partition be made, or Committee appointed, until the rest of the Proprietors have been duly notified of such Application, and Opportunity given them to make their Objections thereunto; which Notice shall be given by serving the Clerk of such Proprietors with a Copy of such written Application thirty Days at least before such Order or Appointment be made; and every Committee that shall be appointed and employed as aforesaid, shall make Return of their Doings in writing under their Hands, unto said Court, as soon after as may be, for Acceptance and Confirmation: And the Proprietors whose Interest shall be so set off, as well as the remaining Proprietors, shall have and enjoy all the Powers and Priviledges which the Proprietors of General Fields are by Law vested withal. Proviso.

This Act to continue in Force until the first Day of July Anno Domini, One Thousand seven Hundred and sixty five, and no longer.

CHAP.

C H A P. III.

An Act for granting several Bounties upon Wheat and Flour.

Preamble.

WHEREAS the raising of Wheat within this Province, and Manufacturing the same into Flour, will be of great Utility,

Bounty upon Wheat, certified by the Surveyor.

Be it therefore enacted by the Governor, Council and House of Representatives, That there shall be paid out of the public Treasury of the Province, for every Bushel of good, sound, well saved and winnowed Wheat of the Growth and Produce of this Province, in the Year One Thousand seven Hundred and sixty three, and so every Year, during the Continuance of this Act, eight Pence per Bushel, except what is intended to be consumed by the Person or Persons who shall raise or produce it and their respective Families, the Quantity and Quality of Wheat to be certified to the Treasurer of the Province under the Hand of such skilful Surveyor or Surveyors, as each Town, District or Plantation shall chuse at their annual Meeting in March yearly for that Purpose, who shall be paid by the Owner of such Wheat eight Pence for every twenty Bushels he shall survey, and so in Proportion for a lesser Quantity; which Surveyor shall be sworn (as other Town Officers are) to the faithful Discharge of his Office, in the Words following, viz.

Form of the Oath.

YOU A. B. being chosen a Surveyor of Wheat and Flour, within the Town of C. for one Year, and until another be chosen and sworn in your Stead, do Swear, that you will well and faithfully execute your said Office, after your best Skill and Cunning, with all Fidelity, and without any Partiality, Favour or Affection, and that you will not pass your Certificate for any Wheat or Flour, but such as in your Judgment, you shall judge to be good and merchantable, as the Law directs. So help you GOD.

Quality of the Wheat ascertained.

And be it further enacted, That no Wheat shall be accounted Merchantable within the Intent of this Act, nor intitled to any Bounty, but such as shall be bright, well cleansed, and seperated from the Straw and Chaff, and fit for Use, and that shall weigh at least fifty six Pounds per Bushel; and no Person shall be intitled to any Premium for Wheat, until he hath made Oath before such Surveyor, who is hereby impowered to administer the same, in the Form following, viz.

Form of the Oath.

YOU A. B. of Swear, that the Bushels of Wheat by you now offered for a Survey and Premium, is bona fide the Produce and Growth of this Province, (and of Lands under your Improvement) and raised since the first Day of September Anno Domini One Thousand seven Hundred and sixty two, and is bona fide designed for Sale, and is over and above the Quantity of Wheat (whether of your own Growth and Produce or otherwise) which you intend or expect to Use in your Family, and that neither you nor any other Person, have received the Premium for the same, or any Part thereof. So help you GOD.

Which Oath shall be reduced to Writing before it is administered; and the Person taking the same shall subscribe his Name thereto; after which the

Bounty on Wheat and Flour.

the Surveyor shall endorse or subscribe his Certificate in the Form following, viz.

¶ The Day of A. D. Surveyed the Quantity of Wheat within (or abovementioned,) and found it of the Weight of fifty-six Pounds per Bushel, and Merchantable, within the Meaning of the Law of this Province Intituled, An Act for granting several Bounties upon Wheat and Flour: Form of Certificate.

And the Person receiving the Premium, shall give the Province Treasurer a Receipt therefor.

And be it further enacted, That for every gross Hundred of fine Merchantable Flour manufactured in this Province, after the last Day of August Anno Domini One Thousand seven Hundred and sixty three, and made of Wheat of the Growth and Produce of this Province; other than for the private Consumption of the Manufacturer and his Family, there shall be paid out of the publick Treasury of the Province, the Sum of eight Pence per Hundred; the Quantity and Quality of the Flour to be certified to the Province Treasurer under the Hand of the Surveyor, who shall be paid for every Hundred of Flour by him surveyed one Penny per Hundred, by the Owner of the Flour: And no Person shall be intitled to any Premium for Flour, until he hath made Oath before such Surveyor, who is hereby empowered to administer the same, in the Words following, viz. Premium on Flour.

YOU A. B. do swear, That the Hundred of Flour by you now offered for a Survey, is bona fide designed and intended for Sale, and not to secure a Bounty upon your Family Consumption; and that the same was Manufactured within this Province, and made out of Wheat raised within the same, since the first Day of September One Thousand seven Hundred and sixty two, and that neither you, nor any other Person have heretofore offered the same for a Survey or received a Premium for the same, or any Part thereof. So help you GOD. Form of the Oath.

Which Oath shall also be reduced to Writing before it is administered, and the Person taking the same shall subscribe his Name thereto; after which the Surveyor shall endorse or subscribe his Certificate in the Form following, viz.

¶ The Day of A. D. Surveyed the Quantity of Flour within mentioned, and find it merchantable within the meaning of the Law of this Province Intituled, "An Act for granting several Bounties upon Wheat and Flour." Form of Certificate.

And the Person receiving the Premium, shall produce such Oath and Certificate to the Province Treasurer, and give his Receipt upon the same.

This Act to be in Force for the Term of five Years from the first Day of July, Anno Domini One Thousand seven Hundred and sixty three, and no longer. Limitation.

C H A P IV.

An Act to subject the unimproved Lands within this Province to be sold for Payment of Taxes assessed on them by Order of the Great and General Court, and Votes and Agreements of the Proprietors thereof, and to enable Proprietors of new Plantations to levy Province and County Taxes laid upon them.

Preamble.

WHEREAS it frequently happens that the Proprietors of unimproved Lands within the several Towns, Precincts, Districts, New Plantations and Proprieties within this Province, neglect or delay to pay their Proportions of the Sums from Time to Time assessed on such Lands by Order of the Great and General Court, and according to their own Agreements, towards defraying the publick Charges arising within such Towns, Precincts, Districts, New Plantations and Proprieties.

Lands to be sold in Case of Non-payment of Taxes.

Be it therefore enacted by the Governor, Council and House of Representatives, That if the Assessors of any of the Towns, Precincts, Districts, New Plantations or Proprieties within this Province, have or at any Time to come shall, pursuant to the Direction, or Orders of the General Court, levy or assess a Tax upon the Lands of the Proprietors, situate in any of the Towns, Precincts, Districts or New Plantations within this Province, for defraying the publick Charges arising in the said Towns, Precincts, Districts, New Plantations or Proprieties, or if the Assessors chosen by the Proprietors of the Common and undivided Land in any of the Towns, Precincts, Districts, New Plantations or Proprieties within this Province, pursuant to the Votes and Agreements of such Propriety, have or shall levy or assess a Tax upon such Proprietors by them thought necessary to carry on and prosecute any Actions or Suits that may be brought by or against them, or for the carrying on and managing of any other publick Affair relating to such Proprietors, or Performance of the Conditions of their Grant respectively, and such Proprietors shall neglect or delay to pay to the Collector or Collectors the Sums from Time to Time levied or assessed upon their Lands as aforesaid, for sixty Days after such Assessment is made and published, by posting up the same in the Town, Precinct, District or New Plantation where such Land lies, and in the Shire Town of the County, that then and in such Case it shall and may be lawful for such Assessors respectively to post up in some publick Place or Places in the Town, Precinct, District or New Plantation where the Land lies, Notifications of the intended Sale of so much and no more of such Delinquent Proprietors Lands or common Rights, as they shall judge necessary to pay and satisfy such Rates and Taxes, and other necessary and intervening Charges three Months before the same be sold. And also the Assessors shall be obliged for the Notification of the Non-resident Proprietors to advertise in all the several Boston News-Papers three several Weeks, the intended Sale at least three Months before the Land be sold: And if any delinquent Proprietors do not by that Time pay such Rates or Assessments and Charges; then and in that Case it shall and may be lawful for the Assessors at a publick Vendue to sell, and execute absolute Deeds in the Law for the Conveyance of such Lands of the Proprietors to the Person or Persons who shall give most for the same; which Deeds shall be good and valid to all Intents and Purposes in the Law for conveying

Notification of Sale to be posted up.

And advertised in the News Papers.

Damage by Fire.

159

conveying such Estates to the Grantees, their Heirs and Assigns for ever. And if the said Lands be sold for more than the Overplus (after all Charges arising about the same are subtracted) to be paid to such delinquent Proprietors or their Order, the Money which the said Lands shall be sold for, to be lodged in the Hands of the Treasurers of the respective Towns, Precincts, Districts or Proprieties; who are hereby directed to attend the Orders of the Assessors of such Towns, Precincts, Districts or Proprieties for Payment of the same, pursuant to the true Intent and Meaning of this Act, reserving to such Non-resident Proprietors as are not Inhabitants of this Province, their Heirs or Assigns, Liberty for Redemption of their Lands so sold, they paying to the Grantees or their Heirs respectively within one Year afterwards, the Sums for which the said Lands were sold with double Damages, until the same be redeemed.

Overplus Money to be returned.

Right of Redemption in Case.

And be it further enacted, That the Assessors of the several New Plantations in the Counties of *Worcester, Hampshire and Berkshire*, which are not incorporated into Towns or Districts, upon which any Part of the Province Tax is laid, be and hereby are authorized, empowered and directed to levy all Province and County Taxes, set upon such Plantations, upon the whole Propriety; except the publick Rights, viz. each Acre an equal Part, and the Collector or Collectors are required to collect the same; and in Case any of the Proprietors of such New Plantations in said Counties, neglect for the space of sixty Days to pay such Assessment, then the Assessors shall sell such delinquent Proprietors Lands, proceeding in Manner as is above directed in this Act for the Sale of Proprietors Lands.

New Plantations in *Worcester, Hampshire & Berkshire*, to be assessed.

This Act to continue and be in Force for the Space of three Years from the first Day of *April* next.

C H A P. V.

An Act to prevent Damage by Fire in the Towns of *Salem, Marblehead*, and other Maritime Towns in the Province.

WHEREAS great Damage has many Times arisen from Fires, which have began in Sail makers and Riggers Lofts, and spread to the Buildings adjacent:

Preamble.

Be it enacted by the Governor, Council and House of Representatives, That from and after the tenth Day of *June* next, it shall not be lawful for any Person to occupy or improve any Tenement or Building whatsoever in any Part of the Towns of *Salem, Marblehead*, or any other Maritime Town in the Province, for the Business or Employment of a Sailmaker or Rigger, save only in such Parts of the Town as the Select-Men of the said Towns respectively or the major Part of them shall determine convenient; such Determination to be certified under the Hand of the Town Clerk.

Select-Men to determine on suitable Places for Sail Lofts.

And

Penalty for
Transgressing

And if any Person shall offend against this Act, he shall forfeit and pay the Sum of *Twenty Pounds* for every six Months, and so in Proportion for a greater or lesser Time he shall so occupy or improve any Tenement or Building that shall not be licenced or allowed as aforesaid, one Half thereof to and for the Use of the Poor of the Towns of *Salem, Marblehead*, or other Maritime Town respectively, the other Half to him or them that shall inform and sue for the same; to be recovered before the Court of General Sessions of the Peace, for the County where the Offence shall be committed.

Limitation.

This Act to continue and be in Force until the twenty-ninth Day of *March*, One Thousand seven Hundred and seventy.

CHAP. VI.

An Act to prevent Damage being done on the Meadows and Beaches lying in and adjoining on the North East Part of the Town of *Yarmouth*, between *Quivet-Harbour* on the East, and *Sesuit-Harbour* on the West.

Preamble.

WHEREAS many Persons frequently drive Numbers of *Neat Cattle, Horses, Sheep and Swine*, to feed upon the Beaches, Meadows and Shores adjoining to the North-East of *Yarmouth* lying between *Quivet-Harbour* on the East, and *Sesuit-Harbour* on the West, whereby the Ground and Beach is much broken and damaged, and the Sand blown on said adjoining Meadows and Upland, to the great Damage not only of sundry private Persons, but to the whole Propriety in general:

Creatures not
to be turned
out on the
Beaches &c.

Be it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act no Person or Persons shall presume to turn any Neat Cattle, Horse-kind, Sheep or Swine to or upon any of the Beaches, Meadows or Shores that lie on the North East Part of the Town of *Yarmouth*, between *Quivet-Harbour* on the East and *Sesuit-Harbour* on the West, at any Time between the first Day of *April* and the last Day of *October* yearly, during the Continuance of this Act, on Penalty of paying for each Offence *five Shillings* a-Head for Neat Cattle Horses or Mares of one Year old or upwards, and *one Shilling* a-Head for each Sheep or Swine that shall be turned or found on said Beaches Meadows or Shores within the Limits aforesaid, which Penalty shall be recovered by any Person that shall inform of and sue for the same, the one Half of said Forfeiture, to him or them that shall inform and sue for the same, and the other Half to be to and for the Use of the Poor of said Town.

Penalty.

Creatures to
be impound-
ed.

And be it further enacted, That if any Neat Cattle, Horse-kind, Sheep or Swine shall at any Time hereafter be found feeding on the said Beaches, Meadows or Shores that lie between said *Quivet-Harbour* and said *Sesuit-Harbour* in said *Yarmouth*, it shall and may be lawful for any Person to impound the same immediately, giving Notice thereof to the Owners thereof if known, otherwise to give publick Notice thereof by posting the same up in some public Place in said Town and the two next adjoining Towns; and

and the Impounder shall relieve the said Creatures with suitable Meat and Water while impounded; and if the Owner thereof appear to redeem his impounded Creatures, he shall pay *one Shilling and six Pence* to the Impounder for each neat Beast and Horse-kind, and *six Pence* for each Sheep and Swine, and the reasonable Cost of Relieving besides the Pound-keepers Fees as by Law appointed for such Creatures, and if no Owner appear within the Space of six Days to redeem the said Cattle, Horse-kind, Sheep or Swine so impounded, and pay the Cost and Damage occasioned by Impounding the same, then and in every such Case the Person impounding such Cattle, or Horse-kind, Sheep or Swine, shall cause the same to be sold at publick Vendue, and pay the Cost and Charges arising about the same; publick Notice of the Time and Place of such Sale to be given in the said Town of *Yarmouth* and in the Towns of *Barnstable* and *Harwich* forty eight Hours before-hand, and the Overplus, if any there be, arising by such Sale to be returned to the Owner of such Cattle or Horse-kind, Sheep or Swine at any time within twelve Months next after, upon his demanding the same, but if no Owner appear within the said twelve Months, then the said Overplus shall be one Half to the Party impounding such Cattle, Horse-kind, Sheep or Swine, and the other Half to the Use of the Poor of the said Town of *Yarmouth*.

Fees & Costs of impounding.

Provided, That nothing in this Act shall be construed to prevent the Owner or Owners of such Beach or Meadows, or any improving under them, from turning on their Horses they Ride, or Cattle they improve in their Teams, to feed on said Beach or Meadows while they are cutting or carting their Salt Hay off said Beach or Meadows. *Provided also*, That the Owners of the Meadows shall keep up and maintain their Fences pursuant to former Agreements.

Provided.

This Act to continue and be in Force for the Space of ten Years from the first Day of *March* next, and no longer.

CHAP. VII.

An Act for reviving and continuing sundry Laws that are expired or near expiring.

WHEREAS the several Acts herein after mentioned (made in the Reign of his late Majesty King George the Second, and in the several Years of the same Reign, as in this Act is set forth) which are now expired, or near expiring have been found useful and beneficial; viz. An Act made in the fourteenth Year, Intituled An Act to prevent Damage being done to the Harbour of Cape-Cod by Cattle and Horse-kind feeding on Province-Town Lands: An Act made in the fifteenth Year, Intituled An Act in Addition to an Act Intituled An Act for Explanation of and Supplement to an Act referring to the Poor: Four Acts made in the sixteenth Year, viz. one Intituled An Act in Addition to, and for rendering more effectual an Act for Regulating the Assize of Cask, and preventing Deceit in packing of Fish, Beef and Pork for Sale, made in the

Acts continued.

Province Towns

Poor.

Assize of Cask and Measure of Grain.

Billingsgate-Bay.	fourth Year of the Reign of King William and Queen Mary; and also for the preventing Fraud and Injustice in the measuring of Grain: <i>Another Act Intituled, An Act to prevent Damage being done unto Billingsgate-Bay in the Town of Eastham by Cattle and Horse-kind, and Sheep feeding on the Beach and Islands adjoining thereto: An Act Intituled, An Act to prevent Multiplicity of Law Suits: Also an Act Intituled, An Act in further Addition to, and Explanation of an Act for Regulating Townships, Choice of Town Officers &c. Also three Acts made in the seventeenth Year, One, Intituled An Act for preventing Mischief by unruly Dogs on the Island of Nantucket: Another Act, Intituled An Act for preventing the Destruction of White Pine Trees within this Province, and for encouraging the Preservation of them for the Use of the Royal Navy; and another Act, Intituled An Act to regulate the Expence of private Bridges: An Act made in the eighteenth Year, Intituled An Act in Addition to the Act for preventing Damage to the Harbour of Cape-Cod, by Cattle and Horse-kind feeding on Province-Town Lands: Another Act made in the twentieth Year Intituled, An Act to prevent Damage being done unto Nasset-Meadow, by Cattle and Horse-kind feeding on the Beach adjoining thereto: An Act made in the twenty-first Year, Intituled An Act to enable the Proprietors of Suncook, to raise Money for the Support of their present Minister: Two Acts made in the twenty-fourth Year, One Intituled, An Act for the Support of Ministers in new Plantations: Another Act Intituled An Act in Addition to an Act for regulating Fences, Cattle, &c. An Act made in the twenty-seventh Year, Intituled An Act to empower the Proprietors of the Meeting-House in the first Parish in Salem where the Reverend Mr. Dudley Leavitt now officiates to raise Money to defray Ministerial and other necessary Charges: An Act made in the thirtieth Year, Intituled An Act for further Regulating the Course of Judicial Proceedings: An Act made in the thirty-first Year Intituled, An Act in Addition to the several Acts for the better Regulating the Indians: Two Acts made in the thirty-second Year, viz. An Act in Addition to an Act Intituled an Act for Regulating of Fences, Cattle, &c. Also an Act in Addition to an Act Intituled An Act to prevent Fraud in Cord Wood exposed to Sale: An Act made in the thirty-third Year, Intituled An Act in further Addition to the Act for Limitation of Actions, and for avoiding Suits in Law, where the Matter is of long Standing: Also an Act made in the first Year of his present Majesty's Reign, viz. An Act Intituled An Act for preventing the Stealing and clandestinely conveying Sheep away from the Island of Martha's-Vineyard in Dukes-County:</i>
Law Suits.	
Regulating Townships.	
Unruly Dogs.	
White Pine Trees.	
Bridges.	
Harbour of Cape-Cod.	
Nasset Meadow.	
Suncook.	
Support of Ministers.	
Regulating Fences.	
Salem Meeting House.	
Judicial Proceedings.	
Regulating Indians.	
Regulation of Fences.	
Cord Wood.	
Limitation of Actions.	
Martha's-Vineyard.	

Be it therefore enacted by the Governor, Council and House of Representatives, That such of the before mentioned Acts as are expired (with all and every Article, Clause, Matter and Thing therein respectively contained) be and hereby are revived, and shall be in Force until the first Day of July, which will be in the Year of Our Lord, One Thousand seven Hundred and sixty seven: And such of said Acts as are not yet expired, are hereby continued, and shall be in Force until the said first Day of July, Anno Domini One Thousand seven Hundred and sixty seven, and no longer.

The seven foregoing Acts were Publish'd February 16th. 1762.

Acts and Laws,

Passed by the Great and General Court or Assembly of his Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1762.

C H A P. VIII.

An Act for rendring more effectual the Laws already made relating to Shingles, and for regulating the Affize of Staves, Hoops and Clapboards.

WHEREAS great Fraud and Abuse are practiced in making and packing Shingles and Hoops; and also in making and culling Staves exported from this Province: Preamble.

For preventing the same for the future,

Be it enacted by the Governor, Council and House of Representatives, That from and after the twenty-fifth Day of *March* next, no Shingles, Staves or Hoops, shall be offered for Sale in any Town within this Province, that shall be under the following Dimensions, viz. all Shingles shall be eighteen or fifteen Inches in Length, according to which of those Lengths they are to be sold for; Pine Shingles shall be free from Sap, and all Shingles shall be free from Shakes and Worm-holes, and be at least, one with another, four Inches and an Half in Breadth, half an Inch thick at the Butt End, and neither of them to be under three Inches and an Half in Width at the Butt End, and shall hold that Width three Quarters of the Way to the thin End, and be well shaved; and each Bundle shall contain the full Number it is sold for; and in Case there shall be above ten Shingles that are under the above Length, Breadth and Thickness, or five short in the Sale, in a Bundle of two Hundred and fifty, and so in Proportion for a larger or smaller Bundle, the Bundle which is so deficient, or in which such Shingles are contained shall be forfeited, and the Shingles in each Bundle not Merchantable, shall be burnt, and the Residue of them sold, and the Money arising from the Sale, shall be paid into the Hands of the Town Treasurer for the Benefit of the Poor of such Town where the Shingles are condemned, first deducting therefrom the Charge of Culling and Surveying. And all white Oak Butt Staves, shall be at least five Feet in Length, five Inches broad, and one Inch and one Quarter of an Inch thick on the Heart or thinnest Edge, and every Part thereof: And all White Oak Pipe Staves, shall be at least four Feet and eight Inches in Length, four Inches broad in the narrowest Part, and not less than three Quarters of an Inch thick on the Heart or thinnest Edge: And all White Oak Hoghead Staves, shall be at least three Feet and six Inches long, and not less than Half an Inch thick on the Heart or thinnest Edge: And all White Oak Barrel Staves for a foreign Market, shall be thirty two Inches long; and those for Home Use, shall be

Dimensions of Shingles, ascertained.

Penalty for Deficiency.

Dimensions
of Staves
ascertained.

Dimensions of
Clapboards

Ditto of
Hoops.

Surveyors of
Clapboards &
Shingles to be
chosen.

Hoop of the
Bundles to be
branded.

Penalty.

Viewers and
Cullers of
Staves and
Hoops to be
chosen.

The Commo-
dities herein
mentioned not
to be shipped
without being
certified to
have been
surveyed.

be thirty Inches long, and Half an Inch thick on the Heart or thinnest Edge : And all White Oak Hoghead and Barrel Staves shall be at least, one with another, four Inches in Breadth, and none under three Inches in Width in the narrowest Part, and those of the Width last mentioned shall be clear of Sap : And all Red Oak Hoghead and Barrel Staves, shall be of the same Length and Thickness with the White Oak Hoghead and Barrel Staves above mentioned, and shall be four Inches wide in the narrowest Part ; and all Staves shall be well and proportionably split : And all Pine Clapboards that shall be exposed to Sale, shall be made of good sound Timber, clear of Sap ; and all Clapboards shall be free from Shakes and Worm holes, and of the following Dimensions, viz. Full five Eighths of an Inch thick on the Back or thickest Part, five Inches wide, and four Feet and six Inches long ; and they shall be strait and well shaved : And all Hoghead Hoops that shall be exposed to Sale, or exported, shall be from ten to thirteen Feet in Length, and shall be made of White Oak or Walnut, and of good and sufficient Substance, and well shaved ; those made of Oak shall be not less than one Inch broad at the least End ; and those made of Walnut, shall be not less than three Quarters of an Inch broad at the least End : That a Bundle shall consist of forty Hoops ; and all Hoops of ten, eleven, twelve and thirteen Feet respectively, shall be made up in distinct Bundles by themselves ; and if any Hoops are packed of less Dimensions than those prescribed by this Law, or more than two short of the Tale in any Bundle, the Bundle shall be forfeited, and sold for the Benefit of the Poor of the Town where it is offered for Sale.

And be it further enacted, That each Town where Shingles are made or sold, may and shall chuse one or more Surveyors of Shingles and Clapboards, in the Month of *March* annually, who shall be under Oath for the faithful Discharge of their Duty, who shall be allowed by the Buyer, *Six Pence* per Thousand for his surveying and telling ; and before any Shingles are sent from the Town where they are made, or at the Place of first Sale before their Delivery, they shall be viewed, surveyed and measured by a sworn Surveyor, and the Town Brand set upon the Hoop of the Bundle : And all Shingles offered to Sale without being surveyed and marked as aforesaid, shall be forfeited and disposed of as afore provided in this Act : And in each Maritime Town in this Province from whence Staves or Hoops are usually exported beyond Sea, there shall be two or more suitable Persons chosen by such Towns some Time before the twenty-fifth Day of *March* next, and at their Meeting in *March* annually, to be Viewers and Cullers of Staves and Hoops, who shall be under Oath faithfully to Discharge their Office, and shall for their Encouragement to accept this Trust, be allowed for their Time and Service, as follows, viz. *One Shilling and eight Pence*, per Thousand for Barrel Staves ; *Two Shillings* per Thousand for Hoghead Staves ; *Two Shillings and four Pence* per Thousand for Pipe Staves ; and *Two Shillings and eight Pence* per Thousand for Butt Staves, as well Refuse as Merchantable ; the Merchantable to be paid by the Person buying the same, and the Refuse by the feller ; and the Culler shall be allowed *Four Shillings* per Thousand for Hoops.

And be it further enacted, That from and after the twenty-fifth Day of *March* next, all Staves that shall be exported from this Province beyond Sea, shall be first culled, and all Hoops first viewed and surveyed by one of the Officers aforesaid, and a Certificate given by the Culler or Surveyor to the Master or Commander of the Ship or Vessel, on Board which they

Affize of Shingles, &c.

they are laden, of the Quantity by him so culled or surveyed; and the Wyths or Hoops with which the Bundles of Hoops are packed, shall be sealed with the Brand of the Town from whence they are exported; and that all Shingles and Clapboards that shall be exported beyond Sea, shall likewise be certified by one of the Surveyors, already required by Law to be chosen in each Maritime Town within this Province, to have been by him surveyed, viewed and approved, and the Number or Quantity thereof; and any sellers of Staves, Hoops, Clapboards or Shingles that shall deliver any of the said Articles before they are culled or surveyed, shall forfeit and pay the Sum of *Eight Shillings* per Thousand; and any Person purchasing any of the Articles before mentioned, and who shall receive them before they are culled or surveyed shall forfeit and pay the Sum of *Eight Shillings* per Thousand, one Half to the Informer who shall sue for the same, in any of his Majesty's Courts of Record within this Province proper to try the same, or before any of his Majesty's Justices of the Peace, in Case the Forfeiture be under *Forty Shillings*, the other Half to the Use of the Poor of the Town where such Offence is committed.

Penalty.

And be it further enacted, That from and after the said twenty-fifth Day of *March* next, the Master or Owner of any Vessel having any Staves, Hoops, Clapboards or Shingles on Board for their Cargo, and which shall be shipped after the said twenty-fifth Day of *March* next, before such Vessel shall be cleared at the Impost-Office, shall deliver into the Impost-Office, a Certificate of such Staves, Hoops, Clapboards and Shingles having been culled or surveyed, and shall likewise make Oath before the Impost Officer (who is hereby requited and empowered to administer the same) or before any one of his Majesty's Justices of the Peace, who shall give a Certificate of said Oath, which shall by the Master or Owner be transmitted to the Impost Officer, that the Staves, Hoops, Clapboards and Shingles on board his Vessel, are *bona fide* the same Staves, Hoops, Clapboards and Shingles, certified to have been culled or surveyed, and that he has no other on board; and the Impost Officer for his Service shall be allowed *one Shilling* for each Vessel.

Vessels having such Commodities not to be cleared without such Certificate.

And be it further enacted, That from and after the twenty-fifth Day of *March* next, if any Person shall presume to ship off any Staves, Hoops, Clapboards or Shingles, unless the same shall first have been culled or surveyed, and marked by a sworn Culler or Surveyor as aforesaid, he shall forfeit and pay the Sum of *eight Shillings* per Thousand, to be disposed of, one Half to the Poor of the Town where the Offence is committed, and the other Half to the Surveyor or any other Person or Persons who shall sue for the same, which he or they are hereby enabled to do, by Action, Bill, Plaint or Information, in any Court proper to try the same, or before any of his Majesty's Justices of the Peace, if the Forfeiture be under *forty Shillings*.

Penalty for shipping without Certificate.

And be it further enacted, That in Case any Culler or Surveyor shall connive or allow of the Breach of this Act, or shall be guilty of any Fraud or Deceit in surveying or culling of Staves, Hoops, Clapboards or Shingles, he shall forfeit and pay the Sum of *ten Pounds* for each Offence; and in Case of his Refusal to attend the aforesaid Service, when he shall be there-to requested, he shall forfeit and pay the Sum of *twenty Shillings*, the Forfeitures and Penalties in such Cases, to be recovered and disposed of as aforesaid.

Penalty on the Officer in Case of Fraud.

[V v]

And

Penalty for
not qualifying
or not serving.

And be it further enacted, That if any Person or Persons, who shall be duly chosen to serve as a Surveyor of Clapboards and Shingles, or as a Culler of Staves and Hoops, shall refuse or neglect to take the Oath for the faithful Discharge of the Office, or to serve therein, every such Person or Persons shall pay the Sum of *twenty Shillings* to the Use of the Poor of the Town choosing such Person or Persons; and every such Town shall forthwith proceed to the Choice of other or others in the Room of any Person so refusing or neglecting.

Continuance
of the Act.

This Act to be in Force for the Space of three Years from the twenty-fifth Day of *March* next, and no longer.

CHAP. IX.

An Act in Addition to the several Acts made to prevent Damage by Fire in the Town of *Boston*.

Preamble.

WHEREAS great Damage has arisen from Fire which has began in Bake-Houses and spread to the Buildings adjacent :

Bake Houses
to be licenced

Be it enacted by the Governor, Council and House of Representatives, That from and after the Publication of this Act it shall not be lawful for any Person to occupy, or improve any Tenement or Building whatsoever in any Part of the Town of *Boston*, for the Business or Employment of baking of Bread for Sale, other than such as are now occupied and improved for that Use, unless in such Parts of the Town as the Justices of the Peace and Select-Men of the said Town or the major Part of both shall determine convenient, such Determination to be certified under their Hands: And if any Person shall offend against this Act, he shall forfeit and pay the Sum of *forty Pounds* for every six Months, and so in Proportion for a greater or lesser Time he shall so occupy or improve any Tenement or Building that shall not be licenced or allowed as aforesaid, other than such as are now occupied or improved for that Use, one Half thereof to be paid for the Use of the Poor of the Town of *Boston*, the other Half to him or them that shall inform and sue for the same, to be recovered before the Court of General Sessions of the Peace for the County of *Suffolk*.

Penalty for
improving
such without
Licence.

Continuance
of the Act.

This Act to continue in Force until the thirtieth Day of *January*, One Thousand seven Hundred and seventy one, and no longer.

CHAP. X.

An Act for setting up a Fair in the Town of *Hardwicke* in the County of *Worcester*.

Fair establish-
ed at *Hard-
wicke*.

BE it enacted by the Governor, Council and House of Representatives, That henceforth there may be kept a Fair in said *Hardwicke*, on the third Wednesday and Thursday of *May*, and on the third Wednesday and Thursday of *October* annually.

And

And be it further enacted, That the said Town of *Hardwicke* be, and hereby are, enabled at a Meeting called for that Purpose, to chuse proper Officers to Regulate said Fair, until the annual Meeting in *March* next, and to be chosen thereafter annually in the Month of *March* during the Continuance of this Act.

Officers to be chosen to regulate the Fair.

And be it further enacted, That no Bargain and Sale made at any of the said Fairs, shall be deemed valid and effectual in the Law, unless the same be made between Sun-rising and Sun-setting.

Bargain to be made between Sun-rise and Sun-set.

This Act to continue and be in Force for the Space of seven Years from the first Day of *July* next, and no longer.

Continuance of the Act.

[The three foregoing Acts were Publish'd June 12th 1762.]

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1762. and continued by fundry Prerogations to Wednesday the twelfth of *January* following, and then met.

CHAP. I.

An Act for reviving and continuing fundry Laws that are expired and near expiring.

WHEREAS the several Acts herein after mentioned, which are now expired or near expiring, have been found useful and beneficial,

Laws continued.

One Act made in the tenth Year of the Reign of King George the Second, Intituled, An Act for securing the seasonable Payment of Town and Precinct Rates or Assessments; Two Acts made in the tenth and eleventh Years of said Reign; One Intituled, An Act in further Addition to an Act made in the first Year of his present Majesty's Reign, Intituled An Act to prevent Coparceners, Joint Tenants and Tenants in Common, from committing Strip and Waste upon Lands by them held in common and undivided: The other Intituled, An Act in further Addition to an Act Intituled An Act for the Relief of Idiots and distracted Persons: One Act made in the fourteenth Year of said Reign, Intituled An Act to encourage the Increase of Sheep and Goats: One Act made in the fifteenth Year of said Reign, Intituled, An Act for the better Regulating of Porters employed

Town and Precinct Rates

Tenants in Common.

Idiots, &c.

Increase of Sheep, &c.

Regulation of Porters.

Small-Pox, &c.	ployed within the Town of Boston: One Act made in the sixteenth Year of said Reign, Intituled, An Act to prevent the Spreading of the Small-Pox, and other infectious Sickness, and to prevent the concealing of the same: One Act made in the eighteenth Year of said Reign, Intituled, An Act in Addition to the Act Intituled, An Act for appointing Commissioners of Sewers: One Act made in the twentieth Year of said Reign, Intituled, An Act for the better Regulating Swine: One Act made in the twenty first Year of said Reign, Intituled, An Act to prevent Deceit in the Gage of Cask: Two Acts made in the twenty second Year of said Reign, one Intituled, An Act for the Ease of Prisoners for Debt: The other Intituled, An Act for the more easy Partition of Lands: One Act made in the twenty third Year of said Reign, Intituled, An Act for Regulating the Hospital on Rainsford-Island and further providing in Case of Sickness: Two Acts made in the twenty-third and twenty-fourth Years of said Reign; one Intituled, An Act in Addition to the Act Intituled An Act to encourage the Increase of Sheep and Goats: The other Intituled, An Act in Addition to the Act for the better regulating Swine: One Act made in the twenty-fourth Year of said Reign, Intituled, An Act for preventing and suppressing Riots, Routs and unlawful Assemblies: Four Acts made in the twenty-sixth Year of said Reign; one Intituled An Act for the more easy Partition of Lands or other Real Estate given by Will, and held in common and undivided among the Devisees: Another Act Intituled An Act for further preventing all riotous, tumultuous and disorderly Assemblies or Companies of Persons, and for preventing Bonfires in any of the Streets or Lanes within any of the Towns of this Province: Another Act Intituled, An Act for preventing Damage by Horses going at Large: Also one Act Intituled, An Act to prevent firing the Woods: Two Acts made in the twenty-seventh Year of said Reign; one Intituled, An Act in addition to the several Laws of this Government made for the Regulating General Fields; the other Intituled, An Act to prevent Neat Cattle and Horses running at Large and feeding on the Beaches and Meadows below the Banks in the Town of Truro, from the House of Joshua Atkins, to Bound Brook; and also on the Common Meadow at and about Pamit-Harbour and River, as far up as the Wading-Place by John Lumbart's: Also one Act made in the thirty-third Year of said Reign, Intituled An Act for the more easy Division and Distribution of Intestate Estates.
Commissioners of Sewers.	
Regulation of Swine.	
Gage of Cask.	
Prisoners for Debt.	
Partition of Lands.	
Rainsford-Island.	
Sheep, &c.	
Swine.	
Riots.	
Lands given by Will.	
Disorderly Companies.	
Horses at large.	
Firing Woods	
General Fields.	
Neat Cattle &c running at large below the Banks at Truro.	
Intestate Estates.	

Be it therefore enacted by the Governor, Council and House of Representatives, That such of the before-mentioned Acts as are expired, be revived, and such of said Acts as are not yet expired, be continued, with all and every Article, Clause, Matter and Thingt herein respectively contained, and shall be in Force until the first Day of July, which shall be in the Year of our Lord One Thousand seven Hundred and Seventy, and no longer.

Supply of the Treasury

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C H A P II.

An Act to supply the Treasury with the Sum of *Forty five Thousand Pounds.*

WHEREAS no Provision is made by this Court to pay off the Forces Preamble.
 employed by this Government for their Services in the Year One
 Thousand seven Hundred and sixty two, under the Command of Ge-
 neral Amherst; And a further Sum is necessary to pay off the Forces that
 were employed by this Government in the Year One Thousand seven Hun-
 dred and sixty one, who continued in the Service over the Winter following,
 under the Command of the aforesaid General: And a further Sum is also
 necessary to defrey the common Charges of Government to May next:
 Therefore to support the Faith and Credit of the Government, and to de-
 frey the Charges aforesaid:

Be it enacted by the Governor, Council and House of Representatives,
 That the Treasurer be, and he hereby is directed and empowered to bor-
 row of such Persons as shall appear ready to lend, a Sum not exceeding
Forty five Thousand Pounds, and for every such Sum so borrowed, the
 Treasurer shall give his Receipt or Obligation, in the Form following, viz.

Province of the *Massachusetts-Bay*,

The

Day of

A. D. 176

Borrowed and Received of

the Sum of

for the Use and Service of the Province of the *Massachusetts-Bay*; and
 in Behalf of said Province, I do hereby promise and oblige my self and
 Successors in the Office of Treasurer, to repay to the said
 or to his Order, on the twentieth Day of June A. D. One Thousand
 seven Hundred and sixty six, the aforesaid Sum of in
Spanish mill'd Dollars, at six Shillings each, or in the several Species
 of coined Silver and Gold enumerated in an Act made and passed in the
 twenty-third Year of his late Majesty King George the Second, In-
 titled, An Act for ascertaining the Rates at which coined Silver and
 Gold, English Half-Pence and Farthings may pass within this Govern-
 ment; and according to the Rates therein mentioned, with Interest an-
 nually, at six per Cent.

Witness my Hand,

A. B.

C. D.

E. F.

} Committee

H. G. Treasurer.

And no Receipt or Obligation shall be given for a less Sum than *Six Pounds*.

And the Treasurer in issuing said Receipts or Obligations, and the Committee
 chosen to countersign them, shall observe and be governed by the Rules and
 Directions given them by an Act of this Province, made in the second Year
 of his present Majesty's Reign, Intituled *An Act to supply the Treasury*
with the Sum of Twenty five Thousand Pounds.

And be it further enacted, That the said *Forty five Thousand Pounds*, Money bor-
 when received into the Treasury, shall be issued in the Manner and for the rowed how to
 Purposes following, That is to say *Three Thousand Pounds*, Part of the be applied.

[X x]

aforesaid

aforesaid Sum of *Forty five Thousand Pounds*, shall be applied for the completing the Payment of the Forces in the Year One Thousand seven Hundred and sixty one : And the further Sum of *Forty Thousand Pounds*, Part of the aforesaid Sum of *Forty five Thousand Pounds*, shall be applied for the Payment of the Forces for their Service in the Year One Thousand seven Hundred and sixty two ; and the remaining Sum of *Two Thousand Pounds*, Part of the aforesaid Sum of *Forty five Thousand Pounds*, shall be applied for the Payment of Grants made, or to be made, by this Court.

And in Order to draw said Money into the Treasury again, and enable the Treasurer effectually to discharge the Receipts and Obligations (with the Interest that may be due thereon) by him given in Pursuance of this Act :

Tax of £. 54,000, granted in 1765.

Be it enacted, That there be, and hereby is granted unto his most excellent Majesty a Tax of *Fifty four Thousand Pounds*, to be levied on Polls and Estates both Real and Personal, within this Province according to such Rules, and in such Proportions, on the several Towns and Districts within this Province, as shall be agreed on and ordered by the General Court or Assembly, at their Session in *June*, One Thousand seven Hundred and sixty-five ; and to be paid into the public Treasury on or before the thirty-first Day of *March*, One Thousand seven Hundred and sixty six.

Rule for apportioning the Tax in Case no Tax Act shall be agreed on.

And be it further enacted, That if the General Court at their Session in *June*, One Thousand seven Hundred and sixty five, and some Time before the twentieth Day of *June* in said Year, shall not agree and conclude upon an Act apportioning the Sums which by this Act are engaged to be paid in said Year apportioned, assessed and levied, then and in such Case each Town and District within this Province shall pay by a Tax, to be levied on the Polls and Estates, both Real and Personal within their Limits the same Proportion of the said Sum as the said Towns and Districts were taxed by the General Court in the Tax then last preceeding ; and the Province Treasurer is hereby fully empowered and directed some time in said Month of *June*, in the same Year One Thousand seven Hundred and sixty five, to issue and send forth his Warrants directed to the Assessors or Select-Men of each Town and District within this Province, requiring them to assess the Polls and Estates both Real and Personal within their several Towns and Districts, for their respective Parts and Proportions of the Sums before directed and engaged to be assessed, to be paid into the Treasury on the aforesaid Time ; and the Assessors, as also Persons assessed, shall observe, be governed by, and subject to all such Rules and Directions as shall have been given in the last preceeding Tax Act.

Money to be paid out of the respective Appropriations.

And be it further enacted, That the Treasurer pay the Sum of *Forty five Thousand Pounds* out of such Appropriations as shall be directed by Warrant, and no other ; and the Secretary to whom it belongs to keep the Muster Rolls and Accounts of Charge, shall lay before the House of Representatives, when they direct, such Muster-Rolls and Accounts after Payment thereof.

Provido.

Provided always, That the Remainder of the Sum that shall be brought into the Treasury by the Taxes ordered by this Act to be assessed and levied, over and above what shall be sufficient to discharge the Notes and Obligations

Relief of Prisoners.

Obligations aforesaid, shall be and remain as a Stock in the Treasury, to be applied as the General Court of this Province shall hereafter order, and to no other Purpose whatever.

C H A P. III.

An Act for the Relief of poor Prisoners for Debt.

BE it enacted by the Governor, Council and House of Representatives, That when any Person standing committed for Debt or Damages, shall complain that he or she hath not Estate sufficient to support him or herself in Prison, the Goaler or Keeper of such Prison, shall at the Request of such Prisoner, apply to two Justices of the Peace within the County, *Quorum Unus*, who shall thereupon make out a Notification under their Hands and Seals, to be served on the Creditor or Creditors of such Prisoner, if he, she or they live within this Province, his or her Executor Administrator, Agent or Attorney, who brought forward the Suit upon which Judgment was made up, and Execution issued, upon which the Prisoner stands committed, by reading the same to them, or by leaving an attested Copy thereof at the Place of his, or her or their usual Abode; or if out of the Province, then to be left at the Place of the usual Abode of such Creditor or Creditors, Agent or Attorney as aforesaid; thereby signifying to him, her or them, such Prisoners Desire of taking the Privilege and Benefit allowed in and by this Act, and of the Time and Place appointed for the intended Caption of his or her Oath; which Notification shall be served at least forty Days before the Caption, and so certified to the Justices, that he, she or they may be present, if they see Cause: and in Case any Creditor lives out of this Province, and hath no Agent or Attorney in it as aforesaid, the Justices shall cause a Notification to be left with the Clerk of the Court from which the Execution issued, fifty Days before the intended Caption; and such Justices, or in Case of their Non-attendance, then any other two Justices *Quorum Unus*, are hereby impowred to administer to the Debtor, if they think proper so to do, after they have fully examined and heard the Parties, the following Oath, *Viz.*

Prisoners for Debt, who have no Estate to apply to two Justices.

Justices Notification to the Creditors, how to be served.

I A. B. do upon my Oath solemnly profess and declare before Almighty GOD, that I have not any Estate Real or Personal in Possession, Reversion, or Remainder, sufficient to support myself in Prison, or to pay Prison Charges; and that I have not since the Commencement of this Suit upon me, nor at any other Time, directly or indirectly sold, leased or otherwise conveyed or disposed of to, or intrusted any Person or Persons whomsoever with all or any Part of the Estate Real or Personal, whereof I have been the lawful Owner or Possessor, with any Intent or Design to secure the same, or to receive or to expect any Profit or Advantage therefrom or done, caused or suffered to be done, any Thing else whatsoever, whereby any of my Creditors may be defrauded. So help me GOD.

Form of the Oath.

Which Oath being taken by such Prisoner, and Certificate thereof made under the Hands and Seals of the Justices administering the same, to the Goaler or Keeper, he shall thereupon set such Prisoner at Liberty, unless the Creditor or Creditors, Agent or Attorney, notified as aforesaid, his, her or their

Prisoners to be discharged on Cate.

their Executor or Administrator, shall give Security to the Goaler or Keeper, for the Payment of *four Shillings and six Pence* per Week, for and towards the Support of such Prisoner, while he or she shall be detained in Prison, and the Goaler or Keeper shall detain and keep in Custody such Prisoner, so long as said Sum shall be paid, but upon failure of Payment thereof, shall set him or her at Liberty : And in Case the Goaler shall refuse or delay to discharge any Prisoner who has complied with this Act, he shall forfeit and pay to the Prisoner the full Sum for which he stands committed, to be recovered by Action of Debt in any Court proper to try the same.

Penalty on
Prisoners hav-
ing acted con-
trary to his
Oath.

And be it further enacted, That if any such Prisoner as aforesaid shall be convicted of having sold, leased or otherwise conveyed or disposed of, or intrusted his or her Estate, or any Part thereof, directly or indirectly, contrary to his or her foregoing Oath, he shall not only be liable to the Pains and Penalties mentioned in the Act for punishing of wilful Perjury, but shall receive no Benefit from his Oath ; or in Case such Prisoner at the Time of the intended Caption shall not take the aforesaid Oath, or be not admitted thereto by the Justices, he or she shall be remanded back to the Goal, and shall not be intitled to the Benefit of this Act, unless a new Notification be made and served in Manner aforesaid.

Judgment to
remain good
against Estate
of Prisoners.

And all and every Judgment obtained against such Prisoner, shall notwithstanding such Discharge as aforesaid, be and remain good and effectual in Law to all Intents and Purposes against any Estate whatsoever, which may then or at any Time afterwards belong to him : and the Creditor or Creditors, Agent or Attorney, their Executors or Administrators, may take out a new Execution against the Lands, Tenements, Hereditaments, Goods and Chattels of such Prisoners (his wearing Apparel, Bedding for himself or his Family, and Tools necessary for his Trade or Occupation only excepted) for the Satisfaction of the Debt in such Sort and Manner as might have been done in Case such Prisoner had never been taken in Execution.

Provido.

Provided nevertheless and it is hereby declared, That such Prisoner as aforesaid, shall only be discharged from the Execution or Executions whereon such Process as is before mentioned, has been had, and not from any other whereon he or she may be committed, until the Oath and Directions before described be taken and attended ; nor shall this Act be construed to extend to any Person in Custody for any Fine imposed upon him.

Continuance
of the Act.

This Act to continue and be in Force from the second Day of *April* next, until the second Day of *April* which will be in the Year of our Lord One Thousand seven Hundred and Seventy.

Supply of the Treasury.

C H A P. IV.

An Act to supply the Treasury with the Sum of *Thirty-eight Thousand six Hundred and fifty Pounds*.

WHEREAS it is necessary in order to support the Faith and Credit of the Government, that further Provision be made by the General Court to enable the Treasurer to discharge the Receipts or Obligations by him given in Behalf of the Province, that will become due in June next:

Preamble.

Be it enacted by the Governor, Council and House of Representatives, That the Treasurer be, and he hereby is directed and empowered to borrow of such Person or Persons as shall appear ready to lend, a Sum not exceeding *Thirty eight Thousand six Hundred and fifty Pounds*; and for every Sum so borrowed, the Treasurer shall give his Receipt or Obligation, in the Form following,

Treasurer im-
powered to
borrow £ 38,
650.

Province of the Massachusetts-Bay,
The Day of A. D. 176
Borrowed and Received of the Sum of
for the Use and Service of the Province of the Massachusetts-Bay; and
in Behalf of said Province, I do hereby promise and oblige my self and
Successors in the Office of Treasurer, to repay to the said or to his
Order, on the twentieth Day of June A. D. One Thousand seven
Hundred and sixty six, the aforesaid Sum of in Spanish
mill'd Dollars, at six Shillings each, or in the several Species of coined
Silver and Gold, enumerated in an Act made and passed in the twenty-
third Year of his late Majesty King George the Second, Intituled, An
Act for ascertaining the Rates at which coined Silver and Gold, English
Half-Pence and Farthings may pass within this Government; and accord-
ing to the Rates therein mentioned, with Interest annually, at six per
Cent.

Form of Treas-
urer's Receipt

Witness my Hand,

A. B. }
C. D. } Committee
E. F. }

H. G. Treasurer.

And the Treasurer in issuing said Receipts or Obligations, and the Committee chosen to countersign them, shall observe and be governed by the Rules and Directions given them by an Act of this Province, made in the second Year of his present Majesty's Reign, Intituled *An Act to supply the Treasury with the Sum of Twenty-five Thousand Pounds*.

And no Receipt shall be given for less than *Six Pounds*.

And be it further enacted, That the said *Thirty-eight Thousand six Hundred and fifty Pounds*, when received into the Treasury, shall be applied by the Treasurer for the Redemption of Government Securities that will become due by the last Day of June next.

Money bor-
rowed how to
be applied.

And in Order to draw said Money into the Treasury again, and enable the Treasurer effectually to discharge the Receipts and Obligations (with the Interest that may be due thereon) by him given in Pursuance of this Act.

Tax of £.45.
607 granted
in 1765.

Be it enacted, That there be, and hereby is granted unto his most excellent Majesty a Tax of *Forty-five Thousand six Hundred and seven Pounds*, to be levied on Polls and Estates, both Real and Personal, within this Province, according to such Rules, and in such Proportions, on the several Towns and Districts within this Province, as shall be agreed on and ordered by the General Court or Assembly, at their Session in *May*, One Thousand seven Hundred and sixty-five; and to be paid into the public Treasury on or before the last Day of *March* then next after.

Rule for ap-
portioning
the Tax in
Case no Tax
Act shall be
agreed on.

And be it further enacted, That if the General Court at their Session in *May*, One Thousand seven Hundred and sixty-five, and some Time before the twentieth Day of *June* in said Year, shall not agree and conclude upon an Act apportioning the Sums which by this Act are engaged to be in said Year apportioned, assessed and levied, then and in such Case each Town and District within this Province shall pay by a Tax to be levied on the Polls and Estates, both Real and Personal within their Limits, the same Proportion of the said Sum as the said Towns and Districts were taxed by General Court in the Tax Act then last preceeding; and the Province Treasurer is hereby fully empowered and directed sometime in said Month of *June*, in the same Year One Thousand seven Hundred and sixty-five, to issue and send forth his Warrants directed to the Assessors or Select-Men of each Town and District within this Province, requiring them to assess the Polls and Estates both Real and Personal within their several Towns and Districts, for their respective Parts and Proportions of the Sums before directed and engaged to be assessed, to be paid into the Treasury on the aforementioned Time; and the Assessors, as also the Persons assessed, shall observe, be governed by, and subject to all such Rules and Directions as shall have been given in the last preceeding Tax Act.

Proviso.

Provided always, That the Remainder, if any there be, of the Sum which shall be brought into the Treasury by the Taxes ordered by this Act to be assessed and levied, over and above what shall be sufficient to discharge the Receipts and Obligations aforesaid, shall be and remain as a Stock in the Treasury, to be applied as the General Court of this Province shall hereafter order, and to no other Purpose whatsoever.

CHAP. V.

An Act declaring and regulating the Standard of Wheat imported into this Province, and for preventing Abuses by Millers.

Preamble.

WHEREAS this Province hath taken Care to regulate its Exports, that the Subjects of our Lord the King in other Parts may suffer no Damage by Fraud and Deceit of any Kind in such Exports, and Justice requiring that its Imports should be so regulated as that his Majesty's Subjects here may not suffer like Damage by Deceit and Fraud

Fraud in such Imports : And whereas there having been established no Standard of the Weight of Wheat here, and it being sold only by Measure, light Wheat is here imported where it procures a like Price with that of due Weight, and other Markets being better regulated, this Province suffers great Damage and Loss :

Be it therefore enacted by the Governor, Council and House of Representatives, That from and after the first Day of July next, all Wheat offered for Sale, shall be, when cleansed of Dirt and Gravel, of the following Weight, to wit ; Light coloured Wheat shall be of the Weight of fifty eight Pounds each Bushel ; and all other Sorts of Wheat shall be of the Weight of sixty Pounds each Bushel ; and if any shall be of greater Weight, it shall be deemed so much better than Merchantable as it's Weight in the Bushel shall exceed the Regulation aforesaid : And if any Wheat shall be of less Weight, it shall be deemed so much worse than Merchantable as it's Weight falls short of the said Regulation ; and in both Cases a proportionable Allowance shall be made accordingly.

Weight of
Wheat ascer-
tained.

And be it further enacted, That the Court of General Sessions of the Peace in each County in this Province, wherein are any Sea-port Towns, shall be, and they are hereby impowered, yearly to appoint Measurers of Grain in every such Town, so many as they shall judge convenient, who shall each be provided at the Expence of their respective Towns, with two Half-Bushel Measures of the Winchester Standard, which shall each have on the Top thereof one Strip of Iron crossing the same, supported by an Iron Studd in the Center thereof ; and shall also be provided each, with proper Scales and Weights at the Expence of their Towns, to weigh at least one Bushel at a Time : And such Measurers shall be sworn to the faithful Discharge of their Office ; and at all Times shall attend at the Request of the Buyer of any Wheat, to Measure the same, and shall weigh as many Bushels as either the Buyer or Seller shall desire ; and from the mean Weight shall determine whether the Wheat so sold be of greater or less Weight than the Standard Weight aforesaid, and thereof shall give both to the Buyer and Seller a Certificate of the Tenor following, Viz.

Measurers of
Wheat to be
appointed, &
Measures
provided.

*B—n A. D. 17 Measured Bushels of Wheat Form of
well cleansed, and it weighs (one Bushel with another) Pounds Certificate:
each Bushel ; being sold by A. B. to C. D.
E. F. Measurer of Grain for the Town of B.*

And for such his Service he shall receive one Half-Penny per Bushel for any Quantity not exceeding twenty Bushels : and if the Quantity exceeds twenty Bushels, and shall not be more than fifty Bushels, he shall receive one Half-Penny per Bushel for twenty Bushels, and one third of a Penny for the Surplusage ; and if the Quantity shall exceed fifty Bushels, he shall receive for the whole at the Rate of one Farthing only per Bushel, and two Pence for each Certificate ; the Charge of the whole to be borne equally by the Buyer and Seller : And if any Master of a Vessel, or other Importer or Seller of Wheat shall refuse to have his Wheat so measured, and shall expose it to Sale, he shall forfeit the Sum of Three Pounds for every such Refusal ; and if any Measurer of Grain appointed in Pursuance of this Act, shall be guilty of any Fraud or Deceit in measuring or weighing, and be thereof convicted by Verdict of a Jury, he shall forfeit the Sum of Five Pounds for every such Default, and shall be immediately upon

Measurers
Fees.

Penalty on
refusal of ha-
ving Wheat
measured and
on Measurers.

upon such Verdict, removed from his Office aforesaid. And the said Court or Sessions, if then Sitting, if not, the Select-Men of the Town for which such Measurer shall have been appointed, shall immediately appoint another in his Room; and if any such Measurer shall refuse to attend his Duty aforesaid, when thereto called, without reasonable Cause, he shall forfeit the Sum of ten Shillings for every such Refusal.

Preamble.

And whereas notwithstanding the many wholesome Provisions already made to prevent Injustice by Millers, great Complaints are made thereof, more especially in the Towns of Bolton, Roxbury and Charlestown.

Millers to be provided with suitable Stones Fans & Screens

Be it enacted, That every Miller in the Towns of Boston, Roxbury and Charlestown, shall by the last Day of July in this present Year, be provided with suitable Mill Stones, Fans and Screens needful for the cleaning, well grinding and making good Meal out of all Sorts of English Grain, and shall keep them in suitable Order, and shall use the same in the cleaning and grinding of such Grain only, and no other Grain, on Penalty of the Sum of ten Pounds for such Neglect, and the Sum of two Pounds for every Month he shall continue thereafter in the Neglect thereof: And the Select Men of said Towns respectively for the Time being are hereby empowered and directed to inspect the Mill-stones, Fans and Screens used for the Purpose aforesaid: And if they or a major Part of them shall judge such Mill-stones, Fans and Screens unsuitable, they are hereby empowered and enjoined to bring an Action or Actions for recovery of the Penalty aforesaid. And every Miller in the Towns aforesaid, if desired, shall weigh the Grain and Meal brought to and carried from his Mill: and if he shall refuse so to do, for every such Refusal he shall forfeit the Sum of five Shillings.

Penalty.

Proviso.

Provided always, That all such Dirt and Gravel as shall by the said Fans and Screens be prevented mingling with the Meal, shall be weighed if the Miller thinks proper, and reckoned to the Owner of the Grain, but if he shall not think proper to weigh the same, and the Owner and Miller cannot agree what Allowance shall be made, such Dirt and Gravel shall not be reckoned to such Owner; and the Miller shall be allowed to take as Toll the sixteenth Part of the Neat Grain of all Sorts by him Ground, and no more, under the Penalty of two Pounds for each Offence.

Fines how to be disposed of

All Fines and Forfeitures arising by this Act, shall be one Half to the Poor of the Town where the Offence is committed; the other Half to the Informer, and may be recovered by Bill, Complaint or Information in any Court of Record, or before any of his Majesty's Justices of the Peace within this Province, if the Sum forfeited does not exceed forty Shillings.

Continuation of the Act.

This Act to continue and be in Force for the Term of five Years from the first Day of July next, and until the End of the then next Session of the General Court, and no longer.

C H A P. VI.

An Act in Addition to the Act made and passed in the eighth Year of the Reign of her late Majesty Queen Anne, Intituled, *An Act for regulating of Drains or common Shores.*

WHEREAS in and by an Act made and passed in the eighth Year of the Reign of her late Majesty Queen Anne, Intituled, An Act for regulating of Drains and common Shores, *It is enacted among other Things,* "That it shall and may be lawful, to and for any one or more of the Inhabitants of any Town, at his and their own Cost and Charge, to make and lay a common Shore or main Drain, for the Benefit of themselves and others, that shall think fit to join therein: And every Person that shall afterwards enter his or her particular Drain into such common Shore or main Drain, or by any more remote Means, receive Benefit thereby, for the draining of their Cellars or Lands, shall be obliged to pay unto the Owner or Owners of such common Shore or main Drain, a proportionable Part of the Charge of making or repairing the same, or so much thereof as shall be below the Place where any particular Drain enters thereinto, at the Judgment of the Select-Men of the Town or major Part of them." Preamble.

And whereas it frequently happens that the main Drains or common Shores decay and fill up, and the Persons immediately affected thereby, are obliged to repair such common Shore to prevent Damage to themselves and others whose Drains enter above as well as below them, and no particular Provision is made by said Act, to compel such Persons as dwell above that Part where common Shores are repaired, and have not sustained Damage, to pay their proportionable Share thereof, as shall be adjudged by the Select-Men, nor in what Manner the same shall be recovered; which has already occasioned many Disputes and Controversies:

Wherefore, for preventing the same for the future;

Be it enacted by the Governor, Council and House of Representatives, That whensoever it shall hereafter happen after the second Day of April next, that any common Shore or main Drain is stopped or gone to decay, so that it will be necessary to open such common Shore or main Drain to remove such Stoppage and repair it, not only the Person or Persons who shall so do, or cause the same to be done, but all others whose Drains enter (either above or below) such common Shore or main Drain, or receive any Benefit by said common Shore or main Drain, shall pay such a proportionable Part of the whole Expence of opening and repairing the common Shore or main Drain, as shall be adjudged to them by the Select-Men of the Town, or the major Part of them, to be certified under their Hands; and if any Person or Persons after such Certificate is made, shall refuse to pay the same within ten Days, to the Person so appointed by the Select-Men to receive it, being duly notify'd thereof, he shall be liable and subject to pay to such Person appointed, double the Sum mentioned in such Certificate, and all Costs arising upon such Refusal; and such Person is hereby

Persons receiving Benefit by common Shores to pay their Proportion for cleaning.

hereby fully authorized and impowered to bring an Action or Actions for the same accordingly.

Proviso.

Provided always, That the Person or Persons who have Occasion to open any common Shore or main Drain in order to clear or repair the same, shall first notify all Persons who are interested therein, that they may have an Opportunity of making their Objections against such Persons Proceedings, and laying the same before the Select-Men; and if the Select-Men or major Part of them, judge their Objections reasonable, then such Person or Persons shall not be obliged to pay any Part of the Charge thereof; but if they do not make their Objections in Person or Writing within three Days after Warning given, or the Select-Men, or the major Part of them, determine their Objections not of sufficient Force, then such Person or Persons may (having first Liberty therefor, under the Hands of the major Part of the Select Men) proceed to open such common Shore, and clean and repair the same; and all interested in such common Shore or main Drain shall pay their Proportion as is provided in this Act.

Proviso.

Provided also, That nothing in this Act shall be construed or understood to set aside or make void any Covenants or Agreements already made, or that hereafter may be made among the Proprietors of such Drains or common Shores.

Continuance of this Act

This Act to continue and be in Force from the last Day of *March* next, to the second Day of *April* One Thousand seven Hundred and seventy, and no longer.

CHAP VII.

An Act to exempt the People called Quakers, from the Penalty of the Law for Non-Attendance on Military Musters.

Preamble.

WHEREAS the People called Quakers, profess themselves conscientiously scrupulous of attending in Arms at Military Musters:

Quakers exempted from attending Military Musters

Be it therefore enacted by the Governor, Council and House of Representatives, That such of the Inhabitants of this Province as are called Quakers, and who shall appear to be such, according to a Rule laid down by a Law of this Province, made in the thirty-first Year of his late Majesty King George the Second, Intituled, *An Act further to exempt Persons commonly called Quakers and Anabaptists from paying Ministerial Taxes*, shall during the Continuance of this Act be exempted from the Penalty of the Law for Non-Attendance on Military Musters.

Continuance of the Act.

This Act to continue and be in Force until the first Day of *July*, which will be in the Year of our Lord One Thousand seven Hundred and Seventy, and no longer.

Newbury-Lottery.

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C H A P. VIII.

An Act for the Continuation of a Lottery (granted and allowed by an Act, Intituled, *An Act in Addition to an Act, Intituled, An Act for raising the Sum of Twelve Hundred Pounds, by Lottery, for building and maintaining a Bridge over the River Parker, in the Town of Newbury, at a Place called Old-Town-Ferry*) for raising a further Sum for that Purpose.

WHEREAS by an Act of this Province, made in the Thirty-third Year of the Reign of his late Majesty King George the Second, Intituled; An Act in Addition to an Act, Intituled An Act for raising the Sum of Twelve Hundred Pounds by Lottery for building and maintaining a Bridge over the River Parker, in the Town of Newbury, at a Place called Old-Town-Ferry; Caleb Cushing, Joseph Gerrish, junior, William Atkins and Daniel Farnham, Esqrs; and Mr. Patrick Tracy, Merchant (or any three of them) were impowered to set up and carry on a Lottery to raise the Sum of Six Hundred Pounds, for defreying the Charges which had arisen on Account of building the Bridge aforesaid; and the necessary Charges of managing the said Lottery; and it now appearing to this Court that the said Sum of Six Hundred Pounds was not sufficient to answer the Purpose aforesaid; and that the Managers are yet in Advance the Sum of Two Hundred and twenty-six Pounds, one Shilling; and it being thought needful to raise the Sum of Three Hundred Pounds, to reimburse the said Managers, and defrey the further Expence of a Lottery for raising the same: Preamble.

Be it therefore enacted by the Governor, Council and House of Representatives, That the said Caleb Cushing, Joseph Gerrish, junior, William Atkins, and Daniel Farnham, Esqrs; and Mr. Patrick Tracy, Merchant (or any three of them) be and hereby are impowered to continue the same Lottery under the same Regulations and Restrictions as in the aforesaid Act of the thirty Third Year of his late Majesty George the Second, are mentioned, until the aforesaid Sum of Three Hundred Pounds is raised, and no more. And if there shall be any Sum remaining, after the necessary Charges of carrying on the said Lottery are defreyed, and the Managers reimbursed, it shall be applied towards repairing the same Bridge as in the same Act is mentioned, and to no other Use or Purpose whatsoever. Newbury Lottery continued for raising £. 300.

[The eight foregoing Acts were Published February 25th, 1763.]

An Act for the better regulation of a Lottery (1795 and 1796) passed by the Legislature of the State of New York, in the year of the Independence of the United States the second.

Enacted by the Senate and Assembly of the State of New York, in the year of the Independence of the United States the second.

The following is a list of the names of the persons who have been appointed to the office of the Secretary of the State of New York, in the year of the Independence of the United States the second.

THE SECRETARY OF THE STATE OF NEW YORK, IN THE YEAR OF THE INDEPENDENCE OF THE UNITED STATES THE SECOND.

